

## Appointment

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**From:** DCRoomARN2528/DC-ARN-OCR-Rooms [DCRoomARN2528@epa.gov]  
**Sent:** 9/22/2017 4:20:42 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Accepted: Preparation for September 26 Meeting with Oakland Port and City  
**Location:** Conference Call//ECRCO Conference Room  
**Start:** 9/22/2017 6:00:00 PM  
**End:** 9/22/2017 7:00:00 PM  
**Recurrence:** (none)

**Your request was accepted.**

---

Sent by Microsoft Exchange Server 2016

Message

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**From:** Garnett, Desean [Garnett.Desean@epa.gov]  
**Sent:** 9/22/2017 4:20:38 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Automatic reply: Preparation for September 26 Meeting with Oakland Port and City

I am out of the office today and will return on Monday, September 25.

Desean

Message

---

**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 11/16/2017 3:26:09 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Re: Meeting re City an Port response and draft Framework Markup

Thanks!

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**From:** McGhee, Debra  
**Sent:** Thursday, November 16, 2017 10:24:03 AM  
**To:** Temple, Kurt  
**Subject:** RE: Meeting re City an Port response and draft Framework Markup

I will do that, Kurt.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ *Martin Luther King, Jr. , 18th April, 1959*

---

**From:** Temple, Kurt  
**Sent:** Thursday, November 16, 2017 10:20 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** Fw: Meeting re City an Port response and draft Framework Markup

Debra: Can you initiate this call from the conference room? I am working at home today. Kurt

---

**From:** Temple, Kurt  
**Sent:** Thursday, November 16, 2017 10:12 AM  
**To:** Dorka, Lilian; Rhines, Dale; McGhee, Debra; Keeler, Katsumi; Rhodes, Julia; O'Lone, Mary; Garnett, Desean; Grow, Richard; Strauss, Alexis  
**Cc:** Harrison, Brenda  
**Subject:** Re: Meeting re City an Port response and draft Framework Markup

The number and code for today's call re Oakland

**Conference Line/Code / Ex. 6**

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**From:** Temple, Kurt  
**Sent:** Monday, November 13, 2017 1:23 PM  
**To:** Temple, Kurt; Dorka, Lilian; Rhines, Dale; McGhee, Debra; Keeler, Katsumi; Rhodes, Julia; O'Lone, Mary; Garnett, Desean; Grow, Richard; Strauss, Alexis

**Cc:** Harrison, Brenda

**Subject:** Meeting re City an Port response and draft Framework Markup

**When:** Thursday, November 16, 2017 11:30 AM-12:30 PM.

**Where:** Room 2528

**Conference Line/Code / Ex. 6**

Message

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**From:** Rhines, Dale [rhines.dale@epa.gov]  
**Sent:** 8/22/2017 7:41:43 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** RE: Oakland Production Log.xlsx

Can we use sharepoint?

---

**From:** McGhee, Debra  
**Sent:** Tuesday, August 22, 2017 3:27 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>  
**Cc:** Johnson, Johahna <Johnson.Johahna@epa.gov>  
**Subject:** RE: Oakland Production Log.xlsx

For the time being, until we get the Title VI library migrated over to a drive that CRFLO also uses, I plan to keep the log up to date and share via E-mail. That will give the attorney working on the case a chance to see a list of everything we've got on hand and ask for specific documents which I can then load to the shared drive.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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---

**From:** O'Lone, Mary  
**Sent:** Tuesday, August 22, 2017 3:08 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>  
**Cc:** Johnson, Johahna <Johnson.Johahna@epa.gov>  
**Subject:** RE: Oakland Production Log.xlsx

Good idea. No add'l thoughts on columns.

If this log is to keep track of the admin record (not all the drafts case managers produce of various IPs, SCAMPS, timelines, briefing papers), then I agree that it would be good for CRFLO reviewers (not just ECRCO reviewers) to have access to those documents.

It is the official admin record type material that is described in this spreadsheet (correspondence, ROCs, evidence) that I was suggesting could be stored in the I Drive's Shared Civil Rights folder so ECRCO managers & CRFLO attorneys would all have access necessary for each of us to conduct our respective reviews.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA

1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** McGhee, Debra

**Sent:** Friday, August 18, 2017 10:58 AM

**To:** Keeler, Katsumi <[Keeler.Katsumi@epa.gov](mailto:Keeler.Katsumi@epa.gov)>; O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Rhines, Dale <[rhines.dale@epa.gov](mailto:rhines.dale@epa.gov)>

**Cc:** Johnson, Johahna <[Johnson.Johahna@epa.gov](mailto:Johnson.Johahna@epa.gov)>

**Subject:** Oakland Production Log.xlsx

I'd like to suggest that we use this log, or one like it, throughout the City of Oakland case. This log is modeled on one that DOJ shared with us during the last training.

The idea here is that a reviewer or team member could go to ONE SHEET and scan it to figure out what documents we have on hand in a case, and where those documents are stored. It would be important for team members to be disciplined about saving documents to the Title VI Library and listing them on the spreadsheet, however, once that was done, we'd have a sort of table of contents for all the materials related to the case. (R

(Right now the Title VI library is stored on a drive that only ECRCO can access, but I hope we can change that one of these days.)

I have only entered one item related to this case so far because I wanted to share the template and find out if there are other columns that we should add. I'll add a date stamp or header to the Template marking it as "DELIBERATIVE." (Just thought of that).

Do you have any modifications or additions to suggest?

Message

---

**From:** Stewart, JamesL [Stewart.JamesL@epa.gov]  
**Sent:** 9/22/2017 3:04:07 PM  
**To:** Veney, Carla [Veney.Carla@epa.gov]; SecurityOfficers [SecurityOfficers@epa.gov]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]; Harrison, Brenda [Harrison.Brenda@epa.gov]; OARM-OA-HQ-OB [OARM-OA-HQ-OB@epa.gov]  
**Subject:** RE: Outside guests for Tuesday, September 26 at 1:00

Maj. Brunson,

Please notify the PSO's in the north lobby that the below federal and non-federal guests will be arriving on 9/26/17 for a 1 pm meeting. All nonfederal guests must present a valid photo ID, sign in, go thru security screening and be escorted. Carla Veney will be the POC. The below federal guests must present their federal ID's and sign in without going thru x-ray and mag. They also do not need an escort. Thanks

V/R

James L. Stewart  
Security Specialist  
Environmental Protection Agency  
OARM/Facilities Management and Services Division  
Headquarters Operations Branch  
Office: 202-564-7841  
Cell: 202-450-0284

Mailing Address:  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Avenue NW MC 3204R  
Washington, DC 20460

Please send all security related emails to OARM-OA-HQ-OB. Thanks

"We must accept finite disappointment, but never lose infinite hope" Dr. Martin Luther King, Jr.

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**From:** Veney, Carla  
**Sent:** Friday, September 22, 2017 10:59 AM  
**To:** Stewart, JamesL <Stewart.JamesL@epa.gov>  
**Cc:** McGhee, Debra <mcghee.debra@epa.gov>; Harrison, Brenda <Harrison.Brenda@epa.gov>  
**Subject:** Outside guests for Tuesday, September 26 at 1:00

Good Morning, our Acting General Counsel, Kevin Minoli will be hosting a meeting with outside stakeholders next week. The meeting will be held on Tuesday, September 26 from 1:00-3:00. The meeting location will be in 4045 WJC-N. Guests have been asked to arrive via the north entrance. The POC for this meeting will be Debra McGhee (564-4646) and Brenda Harrison (564-6245). So, please have security call either of them for escorts. The list of attendees are as follows:

Barbara Parker, Oakland City Attorney  
Claudia Cappio, Assistant City Administrator  
Maria Bee, Special Counsel, City Attorney's Office

Danny Wan, Port Attorney  
Allison Torrence, Partner with Jenner & Block (Port outside counsel)  
Michele Heffes, Assistant Port Attorney

We also have Department of Transportation employees attending in person. You might not need their names but I will provide them just in case. If they can just be allowed to come up to the 4<sup>th</sup> floor without an escort, that would be helpful. The list of attendees are as follows:

Yvette Rivera  
Howard Caro-Lopez  
Ryan Fitzpatrick  
Deeana Jang

Thank you!

Carla Veney  
Executive Assistant to the General Counsel  
Office of the General Counsel  
Environmental Protection Agency  
Telephone: (202) 564-1619

Message

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**From:** Veney, Carla [Veney.Carla@epa.gov]  
**Sent:** 9/22/2017 2:59:25 PM  
**To:** Stewart, JamesL [Stewart.JamesL@epa.gov]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]; Harrison, Brenda [Harrison.Brenda@epa.gov]  
**Subject:** Outside guests for Tuesday, September 26 at 1:00

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Ryan Fitzpatrick  
Deeana Jang

Thank you!

Carla Veney  
Executive Assistant to the General Counsel  
Office of the General Counsel  
Environmental Protection Agency  
Telephone: (202) 564-1619

## Appointment

---

**From:** Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]  
**Sent:** 9/20/2017 3:20:20 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Meeting Forward Notification: Preparation for September 26 Meeting with Oakland Port and City  
**Location:** Conference Call//ECRCO Conference Room  
**Start:** 9/22/2017 6:00:00 PM  
**End:** 9/22/2017 7:00:00 PM  
**Recurrence:** (none)

### Your meeting was forwarded

Grow, Richard has forwarded your meeting request to additional recipients.

#### Meeting

Preparation for September 26 Meeting with Oakland Port and City

#### Meeting Time

Friday, September 22, 2017 2:00 PM-3:00 PM.

#### Recipients

Strauss, Alexis

Garnett, Desean

Israels, Ken

Reyes, Deldi

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

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Sent by Microsoft Exchange Server

Message

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**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 9/15/2017 8:34:02 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** 2017 09 18 Oakland Draft General Resolution Framework .docx  
**Attachments:** 2017 09 18 Oakland Draft General Resolution Framework .docx

**Importance:** High

Debra: Here is the draft of the Agreement. Please take a look on Monday morning. Thanks, Kurt

Message

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**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 9/15/2017 2:50:46 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** FW: Oakland framework : Big Agreement  
**Attachments:** Oakland Draft RA Extended 9.7.17.docx

As we discussed.

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**From:** Temple, Kurt  
**Sent:** Friday, September 08, 2017 5:05 PM  
**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>  
**Subject:** RE: Oakland framework

Here you go.

---

**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Friday, September 08, 2017 4:58 PM  
**To:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>  
**Cc:** Jang, Deeana (OST) <deeana.jang@dot.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>  
**Subject:** Oakland framework

Hey Lily and Kurt:

Could you send to us the more robust framework draft you did as well? I think we'd like to review it alongside the other version. I'm not saying we don't like the more general version, but the more we have to work with the better our comments can be.

Thanks,

Ryan

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

Message

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**From:** Michele Heffes [mheffes@portoakland.com]  
**Sent:** 9/13/2017 3:06:51 PM  
**To:** O'Lone, Mary [OLone.Mary@epa.gov]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]; atorrance@jenner.com [ATorrance@jenner.com]  
**Subject:** Re: Call in number for RE: Short call related to West Oakland Title VI complaint

Mary,

I've been on the line for about 5 minutes. Just want to make sure you will be joining. Please let me know. Thanks.  
Michele

Michele Heffes  
Assistant Port Attorney  
(510) 627-1348

On Sep 13, 2017, at 3:35 PM, Michele Heffes <mheffes@portoakland.com> wrote:

Ok

Michele Heffes  
Assistant Port Attorney  
(510) 627-1348

On Sep 13, 2017, at 1:51 PM, O'Lone, Mary <OLone.Mary@epa.gov> wrote:

Actually, let's use this call in number. I am working remotely & not sure I'll be successful at hooking in multiple parties.  
1-855-564-1700  
Ext 1104768  
Code 234567

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** Michele Heffes [mailto:mheffes@portoakland.com]  
**Sent:** Wednesday, September 13, 2017 3:07 AM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** McGhee, Debra <mcghee.debra@epa.gov>; atorrance@jenner.com  
**Subject:** Re: Short call related to West Oakland Title VI complaint

Mary-that sounds good. How about if you call me on my cell phone: 415-215-3652. It won't be an international charge for you. That way, you can gather whoever else needs to be on the call. Thanks. Michele

Michele Heffes

Assistant Port Attorney  
(510) 627-1348

On Sep 12, 2017, at 10:59 PM, O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)> wrote:

Michele-  
Basically we can do it from 9am EST/3pm your time onward.  
You want to do before dinner your time?  
How about 11 am EST which would be 5 pm your time (I think)?

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** Michele Heffes [<mailto:mheffes@portoakland.com>]  
**Sent:** Tuesday, September 12, 2017 4:53 PM  
**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>  
**Cc:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>; [atorrence@lenner.com](mailto:atorrence@lenner.com)  
**Subject:** Re: Short call related to West Oakland Title VI complaint

Mary-I'm actually out of the country right now. I received a voicemail from Kurt who I believe is in your office and left him two voicemails. I can possibly arrange for a call tomorrow if you let me know what time is good for you. I am 6 hours ahead of you. Thank you. Michele

Michele Heffes  
Assistant Port Attorney  
(510) 627-1348

On Sep 12, 2017, at 9:37 PM, O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)> wrote:

Michelle-  
I left a couple of messages on your voicemail to see if we could chat for 10 or 15 minutes today or tomorrow if possible.  
We just want to make sure we understand the process that will happen on your end to reach a signed resolution agreement.  
It is a nuts & bolts question about how and when the Board and the public are involved during the process to reach a final agreement, etc.

Thanks, Mary

Mary M. O'Lone  
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Message

---

**From:** Michele Heffes [mheffes@portoakland.com]  
**Sent:** 9/13/2017 1:35:02 PM  
**To:** O'Lone, Mary [OLone.Mary@epa.gov]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]; atorrance@jenner.com [ATorrance@jenner.com]  
**Subject:** Re: Call in number for RE: Short call related to West Oakland Title VI complaint

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Ext 1104768

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Message

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**From:** O'Lone, Mary [OLone.Mary@epa.gov]  
**Sent:** 9/13/2017 11:50:55 AM  
**To:** Michele Heffes [mheffes@portoakland.com]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]; atorrance@jenner.com [ATorrance@jenner.com]  
**Subject:** Call in number for RE: Short call related to West Oakland Title VI complaint

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**Conference Line/Code / Ex. 6**

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Mary M. O'Lone  
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Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

## Appointment

---

**From:** O'Lone, Mary [OLone.Mary@epa.gov]  
**Sent:** 9/13/2017 11:49:18 AM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]

**Subject:** Call with Michelle Hefferes Port of Oakland

**Location:** call in number **Conference Line/Code / Ex. 6**

**Start:** 9/13/2017 5:00:00 PM

**End:** 9/13/2017 5:30:00 PM

**Show Time As:** Tentative

Message

---

**From:** O'Lone, Mary [OLone.Mary@epa.gov]  
**Sent:** 9/13/2017 11:46:08 AM  
**To:** Michele Heffes [mheffes@portoakland.com]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]; ~~atorrence@jenner.com~~ [A.T.atorrence@jenner.com]  
**Subject:** RE: Short call related to West Oakland Title VI complaint

Will do. Talk to you then.

Thanks, Mary

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Michele Heffes  
Assistant Port Attorney  
(510) 627-1348

On Sep 12, 2017, at 10:59 PM, O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)> wrote:

Michele-  
Basically we can do it from 9am EST/3pm your time onward.  
You want to do before dinner your time?  
How about 11 am EST which would be 5 pm your time (I think)?

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** Michele Heffes [mailto:mheffes@portoakland.com]  
**Sent:** Tuesday, September 12, 2017 4:53 PM  
**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>

**Cc:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>; **Personal Email / Ex. 6**

**Subject:** Re: Short call related to West Oakland Title VI complaint

Mary-I'm actually out of the country right now. I received a voicemail from Kurt who I believe is in your office and left him two voicemails. I can possibly arrange for a call tomorrow if you let me know what time is good for you. I am 6 hours ahead of you. Thank you. Michele

Michele Heffes  
Assistant Port Attorney  
(510) 627-1348

On Sep 12, 2017, at 9:37 PM, O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)> wrote:

Michelle-

I left a couple of messages on your voicemail to see if we could chat for 10 or 15 minutes today or tomorrow if possible.

We just want to make sure we understand the process that will happen on your end to reach a signed resolution agreement.

It is a nuts & bolts question about how and when the Board and the public are involved during the process to reach a final agreement, etc.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

Message

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**From:** Michele Heffes [mheffes@portoakland.com]  
**Sent:** 9/13/2017 7:06:59 AM  
**To:** O'Lone, Mary [OLone.Mary@epa.gov]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]; **Personal Email / Ex. 6**  
**Subject:** Re: Short call related to West Oakland Title VI complaint

Mary-that sounds good. How about if you call me on my cell phone **Personal Matters / Ex. 6** it won't be an international charge for you. That way, you can gather whoever else needs to be on the call. Thanks. Michele

Michele Heffes  
Assistant Port Attorney  
(510) 627-1348

On Sep 12, 2017, at 10:59 PM, O'Lone, Mary <OLone.Mary@epa.gov> wrote:

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Washington, DC 20460  
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Assistant Port Attorney  
(510) 627-1348

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Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

Message

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**From:** O'Lone, Mary [OLone.Mary@epa.gov]  
**Sent:** 9/12/2017 7:13:25 PM  
**To:** O'Lone, Mary [OLone.Mary@epa.gov]  
**CC:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** RE: West Oakland RE: Ordinance

Don't need to read the ordinance first, I see it is a Port ordinance.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

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**From:** O'Lone, Mary  
**Sent:** Tuesday, September 12, 2017 3:12 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** West Oakland RE: Ordinance

I left a message for Michele Heffes asking for 15 minutes with me & you to discuss how much of the informal resolution negotiations are in the public eye.

Calling Barbara Parker after I finish reading the City's response & the ordinance.

Thanks for the ordinance. Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** McGhee, Debra  
**Sent:** Tuesday, September 12, 2017 3:08 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Subject:** Ordinance

<https://www.portofoakland.com/files/pdf/CureCorrectProcedure-PO4265.pdf>

*Debra E. McGhee*  
Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ *Martin Luther King, Jr. , 18th April, 1959*

Message

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**From:** O'Lone, Mary [OLone.Mary@epa.gov]  
**Sent:** 9/12/2017 7:12:14 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** West Oakland RE: Ordinance

I left a message for Michele Heffes asking for 15 minutes with me & you to discuss how much of the informal resolution negotiations are in the public eye.

Calling Barbara Parker after I finish reading the City's response & the ordinance.

Thanks for the ordinance. Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** McGhee, Debra  
**Sent:** Tuesday, September 12, 2017 3:08 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Subject:** Ordinance

<https://www.portofoakland.com/files/pdf/CureCorrectProcedure-PO4265.pdf>

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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U.S. Department of Transportation  
Office of the Secretary of Transportation



U.S. Environmental Protection Agency  
External Civil Rights Compliance Office  
Office of General Counsel

July 18, 2017

The Honorable Libby Schaaf  
Mayor, City of Oakland  
Oakland City Hall  
1 Frank H. Ogawa Plaza  
Oakland, CA 94612

Michael Colbruno  
President  
Board of Port Commissioners  
Port of Oakland  
530 Water Street  
Oakland, CA 94607

**Re: Notification of Acceptance for Investigation of Administrative Complaint (DOT# 2017-0093, EPA File Nos. 13R-17-R9 (City of Oakland) and 14R-17-R9 (Board of Port Commissioners and Port of Oakland))**

Dear Mayor Schaaf and Mr. Colbruno:

This is to notify you that the U.S. Department of Transportation (DOT), Departmental Office of Civil Rights (DOCR), and the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), have accepted for investigation the complaint filed by Earthjustice on behalf of West Oakland Environmental Indicators Project (Complainant) against the City of Oakland (City) and the Board of Port Commissioners and Port of Oakland (the Board and Port are collectively referred to as the Port). The complaint was received on April 5, 2017, and alleges violations of Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by DOT (49 C.F.R. Part 21) and EPA (40 C.F.R. Part 7).

Pursuant to DOT's and EPA's nondiscrimination regulations, DOCR and ECRCO conduct preliminary reviews of administrative complaints received for acceptance, rejection, or referral to the appropriate agency. *See* 49 C.F.R. § 21.11(c) and 40 C.F.R. § 7.120(d)(1). Complaints must meet the Agencies' jurisdictional requirements to be accepted for investigation. *See* 49 C.F.R. § 21.11(c) and 40 C.F.R. §§ 7.15 and 7.120(b). After careful consideration, DOCR and ECRCO

have determined that the complaint meets the jurisdictional requirements of both Agencies, and therefore the complaint will be jointly investigated.

Accordingly, the investigation will focus on:

1. Whether the City's and Port's October 4, 2016, approval and/or involvement in approval of a construction management plan and permission for ground-breaking on the Northeast Gateway development project site of the Oakland Army Base subjects the residents of color of West Oakland (predominantly black, Latino, and Asian) to discrimination on the basis of race, color or national origin in violation of Title VI of the Civil Rights Act of 1964 and DOT's and EPA's implementing regulations at 49 C.F.R. Part 21 and 40 C.F.R. Part 7, respectively.
2. Whether the City's and Port's methods, including their public participation processes, for approving and authorizing new development and expanded activities at the Port of Oakland and Oakland Army Base subject the residents of color of West Oakland (predominantly black, Latino, and Asian) to discrimination on the basis of race, color or national origin in violation of Title VI of the Civil Rights Act of 1964 and DOT's and EPA's implementing regulations at 49 C.F.R. Part 21 and 40 C.F.R. Part 7, respectively.

The investigation will be conducted in accordance with DOT's *External Civil Rights Complaint Processing Manual* and EPA ECRCO's *Case Resolution Manual*. The decision to investigate the issues above does not constitute a decision on the merits of the complaint. DOCR and ECRCO are neutral fact-finders and will begin a joint process to gather the relevant information, discuss the matter further with you (or your designee) and the Complainant, as appropriate, and determine next steps utilizing the Agencies' internal procedures. In the intervening time, DOT and EPA will provide you with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving a copy of the letter. *See, e.g.*, 40 C.F.R. § 7.120(d)(1)(ii-iii).

This does not foreclose resolution of matters raised in the complaint through informal resolution, including alternative dispute resolution (ADR). Both DOT's and EPA's nondiscrimination regulations provide that DOCR and ECRCO will attempt to resolve complaints informally whenever possible. 49 C.F.R. § 21.11(d); 40 C.F.R. § 7.120(d)(2). Accordingly, DOCR and ECRCO are willing to discuss, at any point during the process, offers to informally resolve the complaint. We may also be contacting both you (or your designee) and the Complainant in the near future to discuss potential interest in informal resolution, including ADR. For a more detailed explanation of DOCR's and ECRCO's complaint and resolution processes, we invite you to review DOCR's *External Civil Rights Complaint Processing Manual*, available at [https://www.transportation.gov/sites/dot.gov/files/docs/externalcomplaintmanual-final\\_1.pdf](https://www.transportation.gov/sites/dot.gov/files/docs/externalcomplaintmanual-final_1.pdf), and ECRCO's *Case Resolution Manual*, available at [https://www.epa.gov/sites/production/files/2017-01/documents/final\\_epa\\_ogc\\_ecrco\\_crm\\_january\\_11\\_2017.pdf](https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf).

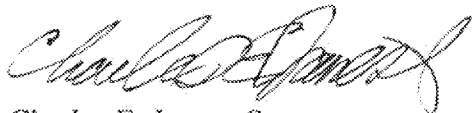
No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights

Mayor Schaaf and Mr. Colbruno

protected by the civil rights requirements that we enforce. *See* 49 C.F.R. § 21.11(e) and 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with DOCR and ECRCO.

Please do not hesitate to contact Ryan Fitzpatrick, Lead Civil Rights Analyst in DOT's DOCR, or Ericka Farrell, Case Manager in EPA's ECRCO, with any questions about the investigation. Mr. Fitzpatrick can be reached at (202) 366-1979, or [ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov). Ms. Farrell can be reached at (202) 564-0717, or [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov).

Sincerely,



Charles E. James, Sr.  
Director  
Office of the Secretary of Transportation  
Departmental Office of Civil Rights  
U.S. Department of Transportation



Lilian S. Dorka  
Director  
External Civil Rights Compliance Office  
Office of General Counsel  
U.S. Environmental Protection Agency

cc:

Deborah Jordan  
Acting Deputy Regional Administrator  
Acting Deputy Civil Rights Official  
EPA, Region 9

Kenneth Redden  
Acting Assistant General Counsel  
Civil Rights and Finance Law Office

Lauren Brand  
Associate Administrator  
Office of Intermodal System Development  
Maritime Administration

Daryl Hart  
Director  
Office of Civil Rights  
Maritime Administration

Message

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**From:** Harrison, Brenda [Harrison.Brenda@epa.gov]  
**Sent:** 4/18/2017 6:41:48 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** RE: Numbers?

13R-17-R9 (PORT & BOARD OF PORT COMMISSIONERS  
14R-17-R9 (CITY OF OAKLAND)

---

**From:** McGhee, Debra  
**Sent:** Tuesday, April 18, 2017 2:40 PM  
**To:** Harrison, Brenda <Harrison.Brenda@epa.gov>  
**Subject:** Numbers?

What are the case numbers for City of Oakland and Port of Oakland, please? Thanks.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.” ~ Martin Luther King, Jr. , 18th April, 1959**

Message

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**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 4/14/2017 3:31:33 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** FW: brownfields grants to Oakland

---

**From:** Temple, Kurt  
**Sent:** Thursday, April 13, 2017 12:04 PM  
**To:** Reyes, Deldi <Reyes.Deldi@epa.gov>; O'Lone, Mary <olone.mary@epa.gov>  
**Cc:** Grow, Richard <Grow.Richard@epa.gov>; Blazej, Nova <Blazej.Nova@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>  
**Subject:** RE: brownfields grants to Oakland

Thank you Deldi. We appreciate this information.

Kurt T. Temple  
Senior Advisor  
External Civil Rights Compliance Office  
EPA Office of General Counsel  
1200 Pennsylvania Avenue, NW  
Room 2524B  
Washington, D.C. 20460  
202-564-7299

---

**From:** Reyes, Deldi  
**Sent:** Thursday, April 13, 2017 12:02 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>; O'Lone, Mary <Olone.Mary@epa.gov>  
**Cc:** Grow, Richard <Grow.Richard@epa.gov>; Blazej, Nova <Blazej.Nova@epa.gov>  
**Subject:** brownfields grants to Oakland

Kurt, glad we could connect this morning.

Re Oakland and funding, please see press release below from last year (link here: <https://www.epa.gov/newsreleases/us-epa-awards-nearly-27-million-assess-and-clean-contamination-arizona-california-and-announcing-a-number-of-awards-including-one-to-abag> (highlighted)). The City of Oakland is an ABAG member.  
<http://abag.ca.gov/overview/members.html>

Nova Blazej, cc'd here, is Region 9's brownfields lead for Alameda County, so if you have any further questions about brownfields grants to Oakland, please give her a call. I understand from Nova there is also an application in play from the City for potential funding this year.

I understand you rely on EPA sources of info for tracking our funding to recipients but just as FYI, the City's website also summarizes EPA brownfields funding awarded to them for a number of areas in Oakland: the coliseum and West Oakland.  
<http://www2.oaklandnet.com/government/o/PWA/o/FE/s/BAC/OAK026274#Coliseum>

Deldi

## News Releases

- [Contact Us](#)

## News Releases from Region 09

# U.S. EPA Awards Nearly \$2.7 Million to Assess and Clean Up Contamination in Arizona, California and Nevada

05/20/2016

Contact Information:

Michele Huitric ([huitric.michele@epa.gov](mailto:huitric.michele@epa.gov))

415-972-3165

**SAN FRANCISCO** – Today, the U.S. Environmental Protection Agency announced that projects in Arizona, California and Nevada will receive a combined \$2,692,000 in federal funds to assess and clean up historically contaminated properties, also known as brownfields, for reuse and development. Awarded through the Assessment, Revolving Loan Fund and Cleanup (ARC) grant program, these funds are part of \$55.2 million being invested in 131 communities across the country.

“EPA is committed to helping communities safely clean up abandoned and contaminated sites and transform them into assets,” said Alexis Strauss, EPA’s Acting Regional Administrator for the Pacific Southwest. “These projects will provide valuable economic support to these communities while protecting public health and the environment.”

ARC grants can be used to either assess a brownfield site (including inventory work and cleanup planning) or to conduct cleanup activities. This helps communities to recycle vacant and abandoned properties for new, productive reuses.

The Arizona, California and Nevada recipients are:

**Gila County Industrial Development Authority (Ariz.) - \$400,000 Assessment Grant:** The Industrial Development Authority (IDA) will conduct 50 assessments at former industrial and commercial properties in the rural mining towns of Globe, Miami, and Claypool. The assessments, which will occur along 6 miles of US 60, will focus on commercial properties that can provide economic redevelopment opportunities. The IDA intends for the assessments to complement existing grassroots efforts set forth by the community.

**Association of Bay Area Governments (Cities of Oakland, San Leandro, Hayward and Alameda County, Calif.) - \$550,000 Assessment Grant:** The Association of Bay Area Governments (ABAG) will support brownfield assessments in Oakland, San Leandro, Hayward and the Ashland and Cherryland neighborhoods of Alameda County. The coalition will focus efforts on a 15-mile corridor of downtowns and mixed-use neighborhoods. These areas were prioritized because they have adopted plans for sustainable, location-efficient redevelopment that also support the Bay Area’s regional vision for an equitable, low-carbon future.

**City of Richmond (Calif.) - \$400,000 Assessment Grant:** The City of Richmond will conduct brownfields assessments in five neighborhoods: Coronado, Santa Fe, Pullman, Iron Triangle, and Belding Woods. These neighborhoods, which have been identified as underserved, are bisected by railroads and are bordered to the southwest by Interstate 580. The city will also use the grant to plan for redevelopment projects, including affordable housing and recreational facilities.

**Sonoma County Community Development Commission (Calif.) - \$392,000 Assessment Grant:** The Sonoma County Community Development Commission will conduct up to 23 environmental site assessments. The assessments, which are focused on petroleum and hazardous substances, will target the Roseland neighborhood in Santa Rosa. Assessments completed under this grant will help to expand an ongoing mixed-use revitalization project in the community and will support new transit investments to reduce air pollution.

**City of Mt. Shasta (Calif.) - \$200,000 Cleanup Grant:** The City of Mt. Shasta will clean up the eight-acre site of a former lumber mill. The mill, which operated from the 1900s until the late 1960s, is contaminated with petroleum hydrocarbons. Cleanup will allow the development of the Landing Commercial Park, which includes plans for commercial, industrial, and recreational space, an RV Park, and a community amphitheater.

**Nevada City (Calif.) - \$200,000 Cleanup Grant:** The city will clean up the Providence Mine, which was a productive gold mine for 68 years but is now abandoned. The mine is contaminated with metals, including mercury, arsenic, and cadmium. Cleanup of this site will allow the city to expand a recreational trail that is easily accessible from their downtown area and will reduce the community's exposure to contaminated soil.

**City of Henderson (Nev.) - \$550,000 Assessment Grant:** The City of Henderson will use the grant to conduct assessments along an 8-mile segment of the Boulder Highway Corridor (State Route 582), a key gateway between Las Vegas, Henderson, the Hoover Dam and Boulder City. The Boulder Highway has a long history of industrial and auto-related uses, including dealerships, auto-body shops and gas stations. Many properties along the highway are now abandoned and redevelopment is hampered by the potential presence of contamination. The grant will help the city implement the Southern Nevada Strong Regional Plan, which seeks to revitalize the Boulder Highway into an attractive, thriving, and functional corridor.

These grants advance EPA's broader commitment to coordinating federal investments to help environmentally overburdened, underserved, and economically distressed communities address local priorities. Aligning federal resources allows agencies to better meet communities' needs and communities to more effectively reap the benefits of collaborative investments. ARC grantees demonstrate a high level of preparedness to undertake specific projects, as they have firm commitments of leveraged funds to move projects forward.

There are an estimated 450,000 abandoned and contaminated waste sites in America. Since the inception of the EPA's Brownfields Program in 1995, cumulative brownfields program investments have leveraged more than \$20 billion from a variety of public and private sources for cleanup and redevelopment activities. This equates to an average of \$17.79 leveraged per EPA brownfields dollar expended. These investments have resulted in nearly 109,000 jobs nationwide. EPA's Brownfields Program empowers states, communities and other stakeholders to work together to prevent, assess, safely clean up, and sustainably reuse brownfields sites.

More on ARC grants: <https://www.epa.gov/brownfields/types-brownfields-grant-funding>

More on EPA's Brownfields Program: <https://www.epa.gov/brownfields>

More on successful Brownfields stories: <https://www.epa.gov/brownfields/brownfields-success-stories>

###

Contact Us to ask a question, provide feedback, or report a problem.

Deldi Reyes | U.S. Environmental Protection Agency | Region 9 | Enforcement Division | Tel 415.972.3795 | [reyes.deldi@epa.gov](mailto:reyes.deldi@epa.gov)

Message

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**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 9/22/2017 2:00:40 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Port - City Oakland JURISDICTIONAL REVIEW.docx  
**Attachments:** Port - City Oakland JURISDICTIONAL REVIEW.docx

I used a combination of USAspending links and .pdf documents to support my jurisdictional determination.

Kurt



Honorable Libby Schaaf  
Mayor, City of Oakland  
1 Frank H. Ogawa Plaza  
3<sup>rd</sup> Floor  
Oakland, CA 94612

JUN 27 2016

**Subject:** Oakland Army Base Redevelopment Project

Dear Mayor Schaaf:

This is to notify you that a Federal interagency team of civil rights and environmental justice practitioners from the U.S. Department of Transportation (DOT), the U.S. Environmental Protection Agency (EPA), the U.S. Department of the Interior (DOI), and the U.S. Department of Homeland Security (DHS) have been meeting monthly to discuss concerns brought to our attention by community members about the redevelopment of the former Oakland Army Base. In particular, we have discussed concerns about the potential adverse impacts on a range of issues affecting the predominately minority neighboring community as a result of some of the options for redevelopment under consideration by the City and Port of Oakland. This includes the possibility that the property may be used to export coal, as well as localized increases in commercial truck traffic, among other issues.

Please note that as recipients of Federal financial assistance, the City of Oakland and the Port of Oakland have an obligation to ensure nondiscrimination on the basis of race, color, or national origin in all of their programs and activities in accordance with Title VI of the Civil Rights Act of 1964.

The interagency team is monitoring the redevelopment of the former base and stands ready to provide support and technical assistance to ensure that the project avoids any potential conflicts with Federal nondiscrimination authorities. If you have any questions, or would like to discuss the redevelopment with members of the team, please contact Ryan Fitzpatrick by telephone at (202) 366-1979, or [ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov), or Alexis Strauss by telephone at (415)-972-3572, or [strauss.alexis@epa.gov](mailto:strauss.alexis@epa.gov).

Sincerely,

Yvette Rivera  
Associate Director  
Departmental Office of Civil Rights  
U.S. Department of Transportation



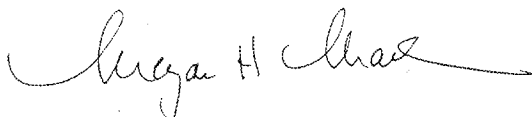
Lilian S. Dorka  
Acting Director  
Office of Civil Rights  
U.S. Environmental Protection Agency



Alexis Strauss  
Acting Regional Administrator  
Region 9  
U.S. Environmental Protection Agency



John W. Burden  
Director  
Office of Civil Rights  
U.S. Department of the Interior



Megan H. Mack  
Officer for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security



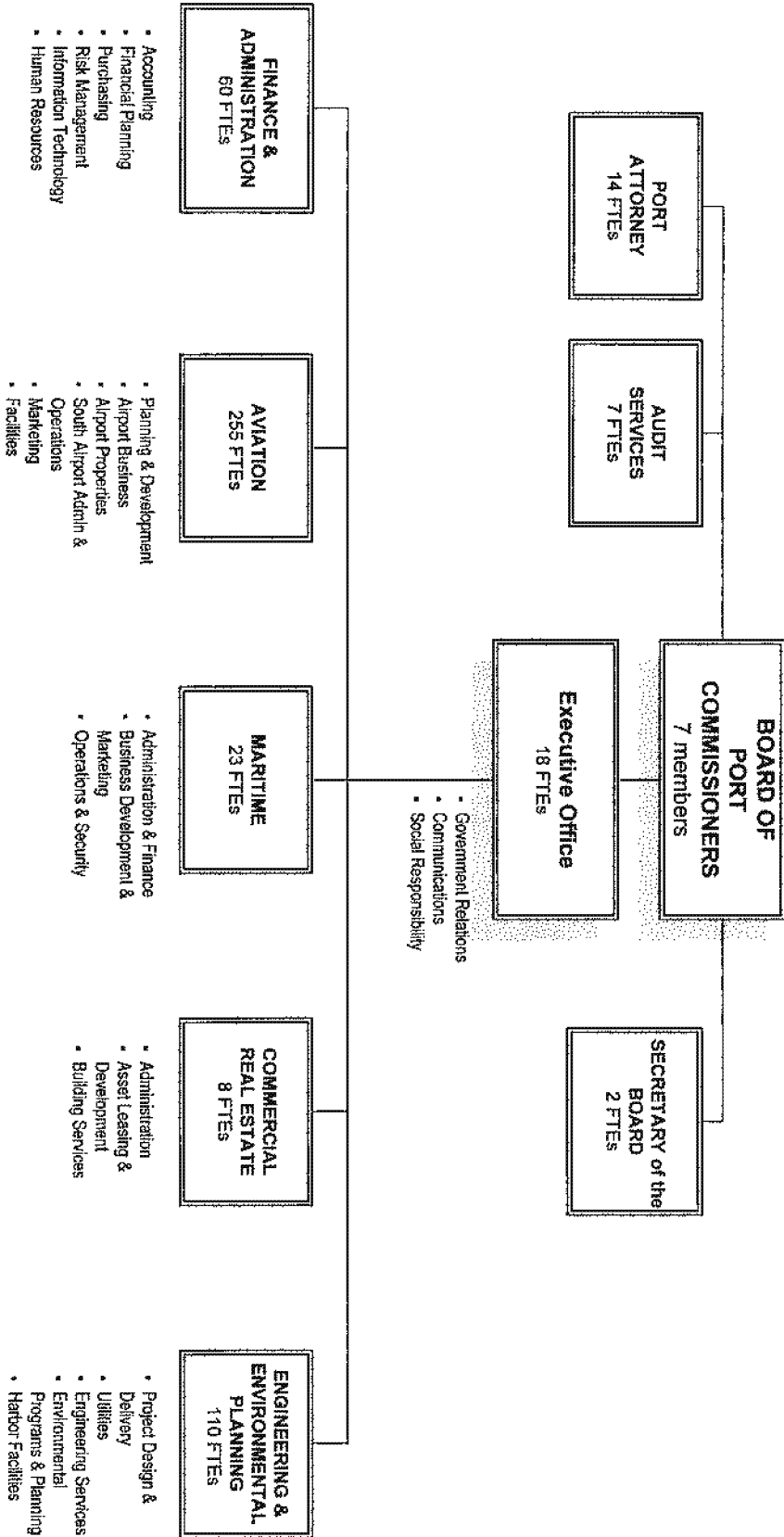
Dr. Teresa R. Pohlman  
Executive Director for Sustainability and Environmental Programs  
Office of the Chief Readiness Support Officer  
U.S. Department of Homeland Security

cc:  
Sabrina D. Landreth  
Oakland City Administrator

J. Christopher Lytle  
Executive Director, Port of Oakland

# **PORT OF OAKLAND ORGANIZATION CHART** Fiscal Year 2015-16

497 Funded FTEs (Full-Time Equivalents)



# ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

Mr. David R. Lloyd  
Office of Land and Emergency Response  
Office of Brownfields and Land Revitalization  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W., MC:5105T  
Washington, DC 20460

December 18, 2015

R09-16-A-003

RE: Transmittal Letter

Dear Mr. Lloyd:

This constitutes the Transmittal Letter for the Association of Bay Area Government's Brownfields Coalition Assessment Grant application.

Applicant: Association of Bay Area Governments  
DUNS number: 07-907-392000000

**Funding Requested**

Grant type: Brownfields Coalition Assessment Grant  
Amount: \$600,000  
Contamination: Hazardous Substances (\$300,000) and Petroleum Products (\$300,000)

Location: Cities of Oakland, San Leandro, and Hayward and County of Alameda California

Contacts: Project Manager  
JoAnna Bullock, Senior Planner and Grants Administrator  
MetroCenter, 101 8<sup>th</sup> Street, Oakland, CA  
510 464-7968 office 510 464-7985 fax  
joannab@abag.ca.gov

Chief Executive  
Ezra Rapport, Executive Director  
MetroCenter, 101 8<sup>th</sup> Street, Oakland, CA  
510 464-7900 office 510 464-7985 fax  
ezrar@abag.ca.gov

Date submitted: December 18, 2015

Project Period: July 2016 – July 2019

Population: 180,000

Mr. David R. Lloyd  
Page 2

Thank you for your consideration of our grant application. We hope that we have developed a compelling justification for funding site assessments in the along the San Francisco Bay Area and look forward to advancing this important work to transform the East 14<sup>th</sup> Street/Mission Boulevard corridor.

Respectfully,

A handwritten signature in black ink, appearing to read "Ezra Rapport", written in a cursive style.

Ezra Rapport  
Executive Director

# East Bay Coalition Brownfields Assessment Grant Application

## 1. COMMUNITY NEED

### 1.a Economic and Community Benefits

**1.a.i. Targeted Community Description:** The target area is located in the cities of Oakland, San Leandro and Hayward as well as the Ashland and Cherryland Census Designated Places in unincorporated Alameda County, within the East Bay of the San Francisco Bay Area. Together with the Association of Bay Area Governments (the coalition lead), these jurisdictions make up the coalition.

The coalition's proposal focuses on a 15 mile corridor of downtowns and mixed-use neighborhoods that have been identified by coalition members as Priority Development Areas (PDAs)—places with adopted local plans for sustainable, location-efficient redevelopment that also support the Bay Area's regional vision for an equitable, low carbon future.

The corridor is defined by the East Bay's historic main street—known as International Boulevard in Oakland, East 14<sup>th</sup> Street in San Leandro, and Mission Boulevard in unincorporated Alameda County and Hayward—and five adjacent Bay Area Rapid Transit (BART) stations. It served as a primary road and streetcar route through the East Bay from its urbanization in the 19<sup>th</sup> century until the completion of Interstates 880 and 580 in the late 1950s and continues to be a critical link between Oakland and Hayward. The five BART stations within the target area connect its residents to nearly a million jobs, as well as educational and cultural opportunities throughout the region.<sup>1</sup> To complement BART, the region's first Bus Rapid Transit (BRT) route will begin service in the corridor in 2017.

Historically, the corridor was an employment center with abundant industrial and commercial jobs, particularly for people of color.<sup>2</sup> Major corporations including Magnavox, General Electric and Montgomery Ward operated large scale divisions beginning in the 1920s through the mid-1970s. A significant portion of the Bay Area's African American and Latino residents formed communities in the corridor. As the target area's neighborhoods experienced suburban flight and industry moved away, jobs dwindled and the area began to fall into significant decline.<sup>3</sup> Accompanying this decline was a spike in crime, blight and the abandonment of commercial and industrial buildings and parcels—many of which are known or suspected brownfields.

Today the corridor is characterized by vacant lots, abandoned industrial facilities, gas stations, and dilapidated structures occupied by auto-repair shops, liquor stores, nail salons, and storefront churches. The current economic recovery has provided very limited benefits to the area while creating displacement pressure on corridor residents and businesses.<sup>4</sup> Environmental contamination—both documented and perceived—continues to pose an obstacle to community health and economic development.

**1.a.ii. Demographic Information:** As Table 1 illustrates, sensitive populations with greater susceptibility to many of the contaminants and cumulative environmental issues in the target area make up a disproportionate share of its residents—including minorities, the unemployed, the poor, children, and very young children. The target area also has high concentrations of populations with multiple risk factors that can exacerbate exposure to contaminants and cumulative issues, including children living in poverty (triple the rate in Alameda County and nearly double the state and national

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<sup>1</sup> Association of Bay Area Governments. (2013). *Plan Bay Area: Final Forecast of Jobs, Population and Housing*.

<sup>2</sup> Johnson, Marilyn S. (1993). *The Second Gold Rush: Oakland and the East Bay in World War II*.

<sup>3</sup> Self, Robert O. (2003). *American Babylon: race and the struggle for postwar Oakland*.

<sup>4</sup> Zuk, Miriam. (2015). *Regional Early Warning System for Displacement*. (Data on Target Area: <http://www.urbandisplacement.org/research>, accessed November 30, 2015)

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rate), and the percentage of new single mothers in poverty (more than double the county rate and a well above the state rate).<sup>5</sup>

**Table 1. Demographic Information**

	<b>Target Area</b>	<b>Remainder of Target Area Jurisdictions (portion outside target area)</b>	<b>Alameda County</b>	<b>California</b>	<b>United States</b>
Population	191,000	512,000	1,560,000	38,100,000	314,000,000
% Minority	90%	64%	67%	61%	37%
% Unemployed	15%	10%	10%	11%	9%
Poverty Rate	22%	8%	9%	16%	16%
% Children (under 18)	27%	20%	22%	24%	23%
% Children in Poverty (under 18)	9%	3%	3%	5%	5%
% Very Young Children (under 5)	8%	6%	5%	7%	6%
Single mothers in poverty as % of women that gave birth in past year	24%	12%	10%	16%	18%
% Senior Citizens (over 65)	9%	14%	12%	12%	14%
Median HH Income	\$42,826	\$76,550	\$ 73,775	\$ 61,489	\$ 53,482

Source for all data: 2009-2014 American Community Survey (ACS) (numbers rounded)

**1.a.iii. Description of Brownfields:** Suspected and known brownfields are present throughout the corridor, located directly adjacent to the homes, schools and parks of the sensitive populations disproportionately represented in its communities. Built before the advent of modern environmental standards, the corridor is a checkerboard of industrial, residential, civic and commercial land uses. Industrial operations that once attracted working families in search of better lives are now sources of contamination, blight and disinvestment that damage the health and welfare of an at-risk population. Oakland's General Electric (GE) transformer assembly plant provided 300 middle wage jobs during its operation between 1927 and 1975. Today, it remains abandoned with no solid plans for reuse, its soils contaminated with polychlorinated biphenyls (PCBs) from coolants and lubricants in electrical equipment.<sup>6</sup> Groundwater contamination from trichloroethylene (TCE) (commonly used to clean metal parts)<sup>7</sup> extends beyond the site, which is surrounded on two sides by neighborhoods. Residents of these neighborhoods, which are in the top 4 percentile statewide for impaired water risk and face elevated levels of toxic releases, have the highest cancer mortality rate in Alameda County—more than 60% above the county as a whole and well above neighborhoods with similar demographic characteristics.<sup>8</sup> These neighborhoods also have elevated incidence of low birth weight—which, like cancer, has been identified as a potential impact of PCB and TCE exposure, and

<sup>5</sup> 2009-2014 American Community Survey (ACS)

<sup>6</sup> CA DTSC Public Notice, "Approval of Final Remediation Plan, Former General Electric Facility," July 2011

<sup>7</sup> Ibid

<sup>8</sup> California Office of Environmental Health Hazard Assessment *EnviroScreen*, 2015; Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*

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which is especially harmful to a community with a high proportion of young children and single mothers in poverty.<sup>9</sup> Between mid-June and mid-December 2015, 485 violent crimes were recorded in a one-mile radius of the site, including 96 robberies and 3 murders.<sup>10</sup>

The GE plant is a microcosm of the impact of brownfields on the corridor; a symbol of disinvestment, poor health, and lost opportunity. It is one of 670 brownfields in the target area identified by the California Department of Toxic Substances Control (DTSC),<sup>11</sup> all of which are located within 1,000 feet of a residential area and many of which share a property line with a residence. 170 of the sites identified by DTSC remain open, including 90 Leaking Underground Storage Tanks (LUST)—primarily former gas and service stations. Frequently identified contaminants at the LUST sites include TPH (particularly benzene) as well as PCBs, TCEs and PCEs—creating soil, groundwater, and indoor air contamination. A wide variety of contaminants have been identified at the other open cleanup sites, reflecting a diversity of historic land uses that available records indicate ranged from heavy manufacturing plants (producing glass containers, plastic, and many other products) to an excavation pit and a bulk petroleum distribution facility. Frequently identified contaminants from these sites include PCE, PCBs and TCEs, with contamination from volatile organic compounds (VOCs), TCA, and lead also found at several locations.<sup>12</sup>

In addition to known brownfields left behind by historic land uses, many businesses operating today in the target area are associated with contaminants. This includes 65 gas stations, 81 laundromats, and 529 manufacturing businesses.<sup>13</sup> Like identified brownfields in the target area, all of these businesses are within 1,000 feet of a residential area, which as noted in *Demographic Information* are made up of a disproportionate share of sensitive populations such as children in poverty.

**1.a.vi. Cumulative Environmental Issues:** Contributing to the risks created by brownfields, one operating and nine non-operating hazardous waste facilities are within one mile or less of the target area, among them an active electronics and universal waste recycling plant and several plating and beverage container companies.<sup>14</sup> The target area is also adjacent Interstate 880, which is used heavily by trucks in route to the Port of Oakland, one of the busiest ports in the country, leading to elevated particulate matter emissions—particularly during commute hours when trucks idle.<sup>15</sup> Exposure is increased by the frequent use of operable windows to ventilate homes and other buildings, as well as the proximity of public spaces such as playgrounds and parks to I-880 and to the target area's other high-pollution roadway, International Blvd/East 14<sup>th</sup> St/Mission Blvd.

Based upon a cumulative analysis of all mobile and stationary sources of pollution, the target area was identified by the Bay Area Air Quality Management District (BAAQMD) as a cumulative impact area, reflecting elevated levels of Toxic Air Contaminants (TAC) and fine particulate matter (PM).<sup>16</sup> BAAQMD also designated the target area a CARE community—a designation used to identify communities with sensitive populations overburdened by air quality and other environmental risks.<sup>17</sup> In addition to these challenges, much of the target area is underserved by grocery stores, has a deficit of parks relative to population compared to other parts of the county, and is more susceptible to the

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<sup>9</sup> Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*; 2009-2014 ACS

<sup>10</sup> Oakland Police Department and crimemapping.com, accessed 12/13/15

<sup>11</sup> DTSC *Geotracker Database*, accessed 12/14/15

<sup>12</sup> Ibid.

<sup>13</sup> Dunn and Bradstreet NETS data 2014

<sup>14</sup> DTSC *EnviroStor Database*, accessed 12/16/15

<sup>15</sup> Ibid

<sup>16</sup> MTC and ABAG. (2013). *Plan Bay Area Environmental Impact Report*

<sup>17</sup> BAAQMD Community Air Risk Evaluation Program (CARE), <http://www.baaqmd.gov/plans-and-climate/community-air-risk-evaluation-care-program>, accessed 12/16/15

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urban heat island effect than other areas.<sup>18</sup>

**1.b. Impacts on Targeted Communities:** Target area residents have dramatically lower health outcomes than residents of adjacent neighborhoods, Alameda County, and California. Many of these negative outcomes are potentially linked to exposure to the contaminants present in target area brownfields—which can take place through direct contact, overland flow dispersion of toxic compounds, wind, groundwater drainage and vapor intrusion—and the cumulative environmental issues in the area. The presence of sensitive populations highlighted above in *Demographic Information* likely exacerbates the impact of these exposures.

The cancer mortality rate, which is a potential effect of exposure to the PCBs and TCE contamination in the target area, ranges from 168 per 10,000 to 230 per 10,000 in the zip codes within the target area, compared to 146 per 10,000 in Alameda County and 131 per 10,000 in California. Asthma hospitalization, potentially linked to exposure to the high levels of PM and TAC in the target area, is 40% above the county and 240% percent above the state for children under 5 and 44% above the county and 350% percent above the state overall. The prevalence of diabetes and obesity are 17% and 28% above county averages, respectively.<sup>19</sup>

Hospitalization from violent assault (which includes murder) is 200% higher in target area zip codes than the county, resulting from a higher crime rate potentially related to blight and lack of access to opportunity. Reflecting the confluence of multiple risk factors, life expectancy at birth in parts of the target area is 70, 10 years below the county average and as many as 29 years below wealthier communities in the county. This ranks 117<sup>th</sup> worldwide, equal to Bangladesh.<sup>20</sup>

In addition to explicit health and safety impacts, vacant brownfields contribute to a land use pattern that does not provide the basic necessities needed by community members such as community centers, grocery stores and parks. The underutilization of the area's land also represents a missed opportunity to provide space for job training, small business incubation, and much-needed housing within walking distance of inexpensive public transit that in less than half an hour reaches the region's major job centers and educational opportunities (and in the process provides an environmentally sustainable commute mode).

### 1.c. Financial Need

**1.c.i. Economic Conditions:** Regional and local funding is not available to conduct the assessments that will be supported by this grant. In 2011, the State of California eliminated Redevelopment Agencies, which had utilized tax increment financing for the acquisition, assessment, remediation, and reuse of blighted properties—including many brownfields. The elimination of Redevelopment resulted in an estimated \$28 million budget shortfall for the City of Oakland in Fiscal Years 2011-12 and 2012-13 alone.<sup>21</sup> In Alameda County, this figure is \$60 million annually, and in Hayward \$5 million annually.<sup>22</sup> The loss of Redevelopment compounded longstanding fiscal crises in coalition jurisdictions, which face rising costs for government services coupled with stagnant sales taxes and local property taxes capped by state law at 1%.

The area's protracted industrial decline, beginning with the closure of major factories in the 1960s and 1970s and compounded by decades of vacancy on the large parcels of land left behind (many of them known or suspected brownfields), has contributed to the persistently high unemployment and

<sup>18</sup> Greenbelt Alliance; UC-Berkeley (2014). *Mapping Climate Change Exposures*

<sup>19</sup> All data in this paragraph: Alameda County Public Health Department, *Alameda County Vital Statistics Files, 2011-2013*

<sup>20</sup> Ibid., US Central Intelligence Agency (2013). *2013 CIA Factbook*.

<sup>21</sup> City of Oakland Press Release, 11/29/11 "Community and Economic Development Agency Dissolved", <http://www2.oaklandnet.com/Government/o/CEDA/index.htm>, accessed 12/18/14

<sup>22</sup> City of Hayward, 2012 *Comprehensive Annual Financial Report* [http://www.hayward-ca.gov/CITY-  
GOVERNMENT/DEPARTMENTS/FINANCE/documents/2012/FY2012\\_Hayward\\_CAIFR.pdf](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2012/FY2012_Hayward_CAIFR.pdf), accessed 12/18/14

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poverty rates highlighted in *Demographic Information*. The GE plant closure described above, which cost the area 350 jobs, was part of a broader trend of lost economic opportunity: between 1950 and 1970, Oakland alone lost 10,000 jobs alone, many of them like GE along the International Blvd/East 14<sup>th</sup> Street corridor. The resulting lack of buying power has for decades depressed sales taxes—a critical revenue source for California cities and a potential source of funding for remediation and cleanup. This was exacerbated by the closure of major department stores along the corridor, including a 9 story Montgomery Ward in 1989 in Oakland and Mervyn's 340,000 flagship store and headquarters in Hayward. The area's industrial decline also led to dramatically lower home values and rental rates, as highlighted in *Economic Effects of Brownfields* below.

Together, these factors severely limit the ability of any of the Coalition members to address the shared brownfields challenge alone. The formation of the Coalition and its collaborative proposal reflect the need to work together to overcome an economic and fiscal obstacle that no member can tackle individually.

***1.c.ii. Economic Effects of Brownfields:*** The prevalence of vacant and underutilized parcels in the target area contributes to a lack of economic activity, reducing potential demand for local businesses, dampening sales and property taxes while also reducing opportunities for community-building and visual surveillance—potentially facilitating the hubs of criminal activity on the corridor.<sup>23</sup> Data collected by the US Postal service indicates that vacancies at business addresses are 24% higher in target area Census Block groups with clusters of four or more brownfields than elsewhere in Alameda County.<sup>24</sup>

These conditions have created a negative perception among businesses and potential investors that are reflected in rents and property values. A comparison on Loopnet.com in December 2015 found that the average price of retail space along the corridor averages \$19/square foot; in contrast, rents along three retail corridors in surrounding areas averaged \$26/sf (Castro Valley Blvd), \$34/sf (Alameda Park St), and \$54/s (Oakland Lakeshore/Grand).<sup>25</sup> According to the 2014 American Community Survey, the median residential rent in the corridor is \$1,150—17% below the rent in other parts of coalition jurisdictions and 20% below Alameda County. Negative perceptions are also reflected in home values, which are a proxy for property taxes: At \$250,000, the median home value in the target area is \$200,000 below neighborhoods elsewhere in coalition jurisdictions and more than \$230,000 below Alameda County.<sup>26</sup> These figures underscore the opportunity costs created by underutilized known or suspected brownfields. While no comprehensive analysis has been completed of the economic impact of blight and brownfields on the corridor, if the median value of the corridor's 28,000 homes were equal to the County, these homes would generate approximately \$90 million each year in additional property taxes.<sup>27</sup>

Combined with other risk factors, the preponderance of vacant lots and blight created by known and suspected brownfields has reduced access to opportunity for local residents by limiting the number of potential jobs and local services within target area communities, contributing to the disproportionately high unemployment and poverty rates illustrated in *Table 1*.

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<sup>23</sup> For example, the northern part of the corridor is known as a hub for child trafficking in the western United States: <http://www.sfgate.com/crime/article/How-girls-fall-into-clutches-of-pimps-4705407.php>, accessed 12/1/15.

<sup>24</sup> HUD, 2014, *HUD Aggregated USPS Administrative Data On Address Vacancies*; Calculations by ABAG.

<sup>25</sup> Loopnet.com: [http://www.loopnet.com/xNet/MainSite/Listing/Search/SearchResults.aspx#/Retail/For-Lease/cIARYCS\\$BAQIBDYVTQG2U20JAtnRyAThQkABAACoB4xcwAEAAngphV7A](http://www.loopnet.com/xNet/MainSite/Listing/Search/SearchResults.aspx#/Retail/For-Lease/cIARYCS$BAQIBDYVTQG2U20JAtnRyAThQkABAACoB4xcwAEAAngphV7A), accessed 12/1/15. Note that Loopnet is a site to advertise properties, not a comprehensive data source.

<sup>26</sup> 2009-2014 American Community Survey.

<sup>27</sup> ACS 2009-2014; Assumes a typical 1.2% property tax rate in the target area (including locally imposed and voter adopted taxes)

## 2. PROJECT DESCRIPTION AND FEASIBILITY OF SUCCESS

### 2.a. Project Description, Project Timing and Site Selection

**2.a.i. Project Description:** This grant will fund 20 Phase I and 6 Phase II environmental site assessments (ESAs) of high-impact suspected brownfields, implementing an integrated regional and local strategy for environmental, social and economic sustainability. In 2013, Bay Area elected officials adopted Plan Bay Area—a blueprint for growth and transportation investment that achieves the State of California’s GHG emissions reduction target for the region. The foundation of Plan Bay Area’s sustainable growth strategy is a network of Priority Development Areas (PDAs)—transit-rich places planned by cities for mixed-income housing, commercial development, and local services. The PDAs that make up the target area are expected to add 44,000 new housing units and 58,000 new jobs by 2040.<sup>28</sup> Land use plans recently adopted by coalition members for these PDAs set the stage for implementation by identifying opportunity sites for a mix of housing, employment, local services, and public spaces to create dense walkable communities. These sites are typically vacant, large enough for significant redevelopment that fulfills a community vision, and in need of assessment to confirm or remove suspicion of the presence of contaminants.

Because a comprehensive environmental review was conducted as part of each local PDA plan, projects on opportunity sites are exempt from most aspects of the entitlement process—reducing much of the uncertainty associated with development in disinvested areas. However, parcel-level analysis of potential contamination has still not been completed on most sites. Combined with longstanding concerns about known and suspected brownfields, the uncertainty surrounding many sites presents a barrier to both private and public investment. The perceived complexity and potential delays involved in conducting assessments deter investors from taking on the additional cost and instead investing in an area with fewer perceived issues. The ESAs funded by this grant will fill this gap, setting the stage for catalyst projects that align with local and regional plans, as well as state and federal sustainability principles.

The Memorandum of Agreement (MOA) established between coalition members at the outset of the grant will create a framework for defining site selection criteria, conducting site selection, creating a community engagement plan, and selecting consultants to perform ESAs. A minimum of four sites will be assessed in each jurisdiction. To prime the assessed sites for reuse, the coalition will conduct preliminary schematic design with engagement from Bay Area LISC, which has funded numerous reuse projects, set the stage for a more detailed cleanup plan.

The activities funded by this grant will position the high-impact sites selected by coalition members to acquire and leverage funding sources such as the state of California’s Affordable Housing and Sustainable Communities program, the Golden State Acquisition Fund, the Bay Area Transit-Oriented Affordable Housing fund and the DTSC revolving loan fund, as well as to forge public-private partnerships and to take advantage of the influx of private capital seeking development sites in the Bay Area.

**Outputs:** 20 Phase I and 6 Phase II ESAs; 6 Preliminary Schematic Site Designs; Priority Sites Inventory; at least 7 Community Meetings

**Outcomes:** \$230-\$560 Million in investment; 2,050-4,100 Jobs; \$7-\$14 Million in ongoing revenues; Reduced community exposure to contaminants; Improved health outcomes

**2.a.ii. Project Timing:** The project is anticipated to commence in spring 2016 and close in spring 2019. Within a month of the grant award, the coalition members will sign a Memorandum of Agreement and the Association of Bay Area Governments (the project sponsor) will complete a Work Plan and schedule that will be included in the Cooperative Agreement with EPA. Project tasks and milestones established in the Work Plan will be tracked on a weekly basis and reported to EPA

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<sup>28</sup> ABAG and MTC (2013). *Plan Bay Area Final Forecast of Jobs, Population and Housing*

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as part of the Quarterly Report. The report will identify percentage completion of each task and progress toward milestones. In the case of delays, ABAG will provide EPA's project manager with an explanation for the delay and identify corrective action.

ABAG will coordinate site selection, contractor selection and oversight, public outreach, site access, and development of reuse strategy, working with Coalition Members through the process formalized in the MOA.

**Table 2. Project Schedule**

	Q2 2016	Q3 2016	Q4 2016	Q1 2017	Q2 2017	Q3 2017	Q4 2017	Q1 2018	Q2 2018
<u>Notice of Award</u>	x								
<u>MOA Adoption</u>	x								
<u>Issue RFP &amp; Consultant Selection</u>		x							
<u>Contract Award</u>									
<u>Site Selection</u>		x	x	x					
<u>Public Engagement</u>	x	x		x			x		x
<u>Assessments</u>					x	x	x	x	
<u>Schematic Designs</u>							x	x	x

**2.a.iii. Site Selection:** Through the MOA, coalition members will establish a governance structure for establishing site selection criteria and for selecting sites. Detailed criteria will expand upon several general principles, prioritizing parcels that are: identified as opportunity sites with significant redevelopment potential in locally adopted plans; within 1/2 mile of frequent transit service; and meet EPA Brownfield site eligibility guidelines. Each coalition member jurisdiction will submit a set of preliminary priority sites from which a final set will be identified utilizing the process established by the coalition. A minimum of four ESAs will be performed in each local coalition member's jurisdiction.

Coalition members will pursue securing Site Access Agreements and once agreements are in place, public and privately-owned sites will be assessed. If access cannot be obtained for a blighted vacant priority site, coalition members may consider utilizing state laws such as the Gatto Act to gain access, or another site on the priority list may be assessed instead. Assessment sites are expected to be evenly divided between those with suspected petroleum contamination and those with suspected hazardous substances contamination.

### 2.b. Task Description and Budget Table

**2.b.i. Task Description:** With the exception of reporting, project tasks will be performed in collaboration with local jurisdiction and community based partners. ABAG staff will convene a series of meetings with local jurisdiction partners to assist with the process of developing a list of sites. Sites under consideration for inclusion on the list will first be screened using EPA site eligibility criteria and vetted with the California Department of Toxic Substances Control (DTSC). While the list is under development, we will convene community organization partners and begin the community engagement process. Regular meetings with local jurisdiction and community organization partners will be convened for the duration of the project.

#### **Task 1 – Partner Engagement and Site Identification**

**\$35,472**

Local jurisdiction partners will develop an initial list of potential sites. Sites will be evaluated using the criteria and process established by the Coalition following adoption of the MOA. The list of potential sites will be vetted using EPA guidelines and in consultation with the community

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organization partners, resulting in a final list of sites and site access as discussed in *Site Selection*.

Outputs: MOA, Priority sites inventory; Site assessment list

Staff time: Senior Regional Planner: 11.1 hours/month @88.68/hour for 36 months = \$35,472

Total: \$35,472

Cost Basis (Petroleum Products): \$17,736

Cost Basis (Hazardous Substances): \$17,736

### **Task 2 – Community Engagement**

**\$34,318**

Community engagement efforts are an integral component of the MOA and will include community communication materials, regular community briefings, project web site, and messaging developed by local jurisdictions and community based organization partners. This effort will be coordinated by ABAG's Communication Specialist in collaboration with community organization partners resulting in a community engagement plan, at least five community meetings and two focus group meetings.

Outputs: Community engagement plan, Minimum five community meetings; Minimum two focus group meetings

Cost Basis

Pass-through: Capacity building for Community Based Organizations = \$5,000

Supplies: printed material, website = \$4,698

Staff time: Communication Specialist: 5.5 hours/month @\$98.10/hour for 36 months = \$19,620

Total: \$34,318

Cost Basis (Petroleum Products): \$17,159

Cost Basis (Hazardous Substances): \$17,159

### **Task 3 – Phase I and Phase II Assessments**

**\$460,000**

The partnership will conduct a thorough consultant selection process to identify the most appropriate firm for this project. This portion of the project includes consultants performing Phase I and II Environmental Assessments as well as Quality Assurance Project Plans, Health and Safety Plans, Sampling and Analysis Plans, and other related reports as warranted.

Outputs: 20 Phase I ESAs; 6 Phase II ESAs

Cost Basis

Contractual: 20 Phase I ESAs @ \$8,000 per Phase I ESA = \$160,000

Contractual: 6 Phase II ESAs @ 50,000 per Phase II ESA = \$300,000

Total: \$460,000

Cost Basis (Petroleum Products): \$230,000

Cost Basis (Hazardous Substances): \$230,000

### **Task 4 –Preliminary Schematic Designs**

**\$13,302**

As land reuse is one of the primary goals of the project, ABAG staff and the project partnership will produce schematic designs for up to five sites that are deemed locations with high redevelopment potential and aligned with adopted local plans. Bay Area LISC will be consulted regarding feasibility.

Outputs: 6 Preliminary Schematic Designs

Cost Basis

Staff time: Regional Planner: 12.5 hours/month @88.68/hour for 12 months = \$13,302

Total: \$13,302

Cost Basis (Petroleum Products): \$6,651

Cost Basis (Hazardous Substances): \$6,651

### **Task 5 - Project Management and Reporting**

**\$56,908**

This task includes staff time for general oversight of the project ACRES and general reporting requirements for the grant award. ABAG project staff will hold weekly project meetings to monitor progress, identify and develop strategies to resolve issues that arise, and generate quarterly reports.

Outputs: Quarterly Reports

Cost Basis

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Staff time: Senior Regional Planner: 2.7 hours/month @\$110.12/ hour for 36 months = \$15,416

Senior Regional Planner: 5.5 hours/month@ \$88.68/hour for 36 months = \$17,736

Finance Specialist: 2.2 hours/month @ \$76.35/hour for 36 months = \$6,108

Indirect costs of financial and performance reporting: = \$17,648

Total: \$56,908

Cost Basis (Petroleum Products): \$28,454

Cost Basis (Hazardous Substances): \$28,454

**2.b.ii. Budget Table:** Separate budget tables are included for the hazardous substance and petroleum work that distinguish hazardous substances related tasks from petroleum related tasks.

**Table 3. Hazardous Substance Budget**

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	\$17,736	\$9,810		\$6,651	\$19,630	\$53,827
Indirect Cost					\$8,824	\$8,824
Travel		\$100				\$100
Website		\$475				\$475
Printing		\$630				\$630
Contractual			\$230,000			\$230,000
CBO Support		\$5,000				\$5,000
Meetings		\$1,144				\$1,144
Total	\$17,736	\$17,159	\$230,000	\$6,651	\$28,454	\$300,000

**Table 4. Petroleum Products Budget**

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	\$17,736	\$9,810		\$6,651	\$19,630	\$53,827
Indirect Cost					\$8,824	\$8,824
Travel		\$100				\$100
Website		\$475				\$475
Printing		\$630				\$630
Contractual			\$230,000			\$230,000
CBO Support		\$5,000				\$5,000
Meetings		\$1,144				\$1,144
Total	\$17,736	\$17,159	\$230,000	\$6,651	\$28,454	\$300,000

**2.c. Ability to Leverage:** ABAG is a regional planning agency that enables its members to develop sustainable projects. The coalition members have resources and leveraging opportunities to bring projects along this corridor to redevelopment. The coalition proposal is designed to position projects in corridor opportunity sites to attract investment that leverages existing and future funding sources, providing a substantial return on investment for the ESAs funded by the EPA.

Existing sources for cleanup and redevelopment include: the California DTSC Revolving Loan Fund, which provides up to \$2.5M in low-cost financing for cleanup to facilitate projects similar to those anticipated on corridor opportunity sites; the California Water Resources Board's \$200M Storm Water Grant Program, which can be used to fund new public spaces such as parks and community gardens identified on brownfield sites in community plans; the \$400M state Affordable Housing and Sustainable Communities fund, which provides grants for mixed-income housing, active

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transportation and green infrastructure in PDAs (including more than \$7M won by Coalition Members in 2015); more than \$100M in annual Low-Income Housing Tax Credits available to Bay Area Community Development Finance Institutions (such as community partner Bay Area LISC) to support affordable housing and community facilities; the \$60M Transit Oriented Affordable Housing (TOAH) fund administered by MTC in partnership with ABAG. In addition to these existing sources, a range of potential new sources are under discussion, such as a Bay Area regional housing bond (potentially \$500M annually) and a state housing bond similar to Proposition 1C (\$3B), which was used successfully to support multiple brownfields reuse projects.

Local government partners may also choose to utilize California's Gatto Act to recover cleanup costs in cases where assessments reveal contamination for which there is a viable responsible party. The City of Oakland, for example, previously negotiated a \$700,000 settlement from Chevron Corporation for cleanup of contamination characterized under a prior US EPA Assessment Grant for Oakland's Uptown Area.

In future years, coalition members may also establish Enhanced Infrastructure Finance Districts (EIFD), which would also become a source of leveraging. Enabled by a recent state law, EIFDs permit limited tax increment financing to fund infrastructure as well as remediation in areas (such as target area PDAs) consistent with regional Sustainable Communities Strategies (i.e. Plan Bay Area).

### 3 COMMUNITY ENGAGEMENT AND PARTNERSHIPS

#### 3.a. Plan for Involving Targeted Community & Other Stakeholders; and Communicating Project Outcomes

**3.a.i. Community Involvement Plan:** The coalition's proposal leverages deep relationships with community stakeholders built during recent local and regional initiatives including Plan Bay Area, the HUD-funded Regional Prosperity Strategy, and recently adopted plans for the corridor's Priority Development Areas. After completing the MOA, coalition members will work with established partner community organizations to develop a community engagement plan tailored to the needs of the corridor's communities. We anticipate the community engagement plan will include the following:

- Convene five public meetings to: share information including project overview, composition and goals of the coalition, desired project outcomes, and timeline; receive input and feedback from community groups, property owners, local businesses and residents about site selection and land reuse planning; and share outcomes and discuss next steps
- Hold focus group meetings with interested members of the community to receive detailed input into project goals, site selection, and reuse planning
- Develop printed and online material on the overall project, opportunities for engagement, FSAs, and reuse planning; disseminate brochures in heavily traveled places along the corridor where they will be highly visible and accessible

**3.a.ii. Communicating progress:** The coalition will utilize methods that have proven successful in past regional and local planning initiatives. We are confident these methods will prove useful for this project but are continuously seeking best practices and open to modifying our approach if more effective methods are discovered. We anticipate that these will include:

- Establish community assistance telephone line to respond to inquiries from interested parties and residents; this will be particularly helpful for those without access to internet
- Create a web site that describes short and long term plans for the corridor, provides status of projects, and updates on overall progress (with translation as appropriate)

## East Bay Coalition Brownfields Assessment Grant Application

### 3.b. Partnerships with Government Agencies

**3.b.i. Local/State Environmental Authority:** The California Department of Toxic Substances Control (DTSC) oversees the investigation and remediation of Brownfield sites in the state. The target area is located in DTSC's Region IX Brownfield program. DTSC will be available to consult on the grant and provide input on site selection and other key decisions, as well as provide guidance on opportunities obtain future cleanup funding through sources such as its voluntary cleanup program and revolving loan fund.

**3.b.ii. Other relevant Governmental Partnerships:** ABAG is the sister organization to the Metropolitan Transportation Commission, which oversees regional transportation project funding. Together, ABAG and MTC are responsible for developing and implementing Plan Bay Area. In addition, ABAG maintains strong longstanding relationships with other regional planning and regulatory organizations including the San Francisco Regional Water Quality Control Board, Bay Area Air Quality Management District, and the County of Alameda's Department of Health Services and Public Health Department.

### 3.c. Partnerships with Community Organizations

**3.c.i. Community Organization Description and Role:** Community organization partners for this project include organizations that participated in the development of Plan Bay Area and community plans in coalition jurisdictions. ABAG and local coalition members have long standing relationships with many of these organizations and has successfully worked with them on many issues including housing, land use and social justice.

These organizations serve large communities along the corridor and focus on a number of issues including housing, open space and social equity. In addition to the organizations named, we will build on relationships and capacity developed through the HUD Sustainable Communities Grant. The coalition's goal is to design the work so that community organizations can maximize their effectiveness. To ensure community participation in this project, the budget includes funds to increase capacity and support these vital organizations.

Within 3 months of establishment of the MOA, ABAG will convene the community partners to provide a project overview, develop the community engagement plan, and solicit input about issues relevant to their areas of expertise. With assistance from the Coalition, community organization partners will organize and conduct public meetings in the portions of the corridor in which they have an established presence.

**OCCUR** is a community organization that brings together East Bay residents, merchants and governments to stimulate the economic development potential of emerging communities; it will focus on outreach and meeting facilitation. The **Unity Council** is a non-profit community development corporation with expertise in mixed-use development and building health communities; the Unity Council will provide insight into the development process as well as conduct outreach. **TRANSFORM** is a sustainable transportation organization active across the Bay Area and California, with a particular focus on the East Bay; TRANSFORM will focus on meeting facilitation and technical assistance around Transit-Oriented Development. **Greenbelt Alliance** is a Bay Area non-profit with expertise in meeting facilitation and smart growth policy; it will focus on meeting facilitation and providing technical assistance around conservation. **Bay Area LISC** is a community development finance institution (CDFI) responsible for distributing federal low-income tax credits and providing comprehensive place-based support to low income communities; LISC, which has built nearly 12,000 homes and apartments and over 1.4M square feet of community-serving development in the East Bay and larger Bay Area, will provide insight into funding strategies for projects on opportunity sites.

#### 4. PROJECT BENEFITS

**4.a.i. Health and/or Welfare Benefits:** The ESAs and reuse strategies funded by this grant are an important step in addressing the severe health impacts discussed in *Community Need*. Assessment followed by cleanup and redevelopment will help eliminate the risks of exposure to site contaminants, thereby protecting nearby and sensitive populations such as children and young single mothers in poverty. Reducing the population's exposure to contaminants will have the long term effect of potentially reducing cancer rates, increasing life expectancy and improving quality of life while also reducing risks to workers involved in future construction projects on these sites. Assessments that remove suspicions of contamination would provide the additional level of certainty required for public and private investment, allowing projects that implement community priorities to move ahead.

As local PDA plans recommend land uses that serve the existing community, including parks and affordable housing, the redevelopment of opportunity sites facilitated by this grant will combine health, welfare and economic benefits. In addition to creating job opportunities and reducing blight, many projects will provide services that address the immediate challenges facing corridor residents. Health and wellness centers, for example, are integrated into recent mixed-use housing developments in the area such as the Lion Creek Crossings in Oakland, a Phoenix Award winner. Other recent projects, such as the REACH Ashland Youth Center, a park with youth services, provide comprehensive wrap-around services including literacy, job training, and health. Bringing new homes and businesses into target area will also help address disproportionately high levels of obesity and diabetes by increasing the number of local services, such as grocery stores, that can be reached on foot while also supporting higher levels of transit service. Consistent with local plans, projects on opportunity sites will provide easements for new pedestrian and bicycle connections, improving opportunities for active transportation and increasing greenspace. By increasing the use of sustainable modes of transportation, reuse will also help reduce emissions associated with asthma such as TAC and PM.

**4.a.ii. Environmental Benefits:** The ESAs funded by this grant will facilitate the removal of an array of contaminants that have for years damaged the soil, groundwater, stormwater, and indoor air quality of the target area such as PCBs, TCE, PCE, and TPH. In addition to addressing community environmental quality, contaminant removal will reduce risks to the health of the San Francisco Estuary from contaminated stormwater and the East Bay's water supply from groundwater contamination. The ESAs will also provide clarity on the relative risk of different sites, allowing future cleanup efforts to focus on locations that pose the greatest risks.

As development in the target area advances—spurred by the brownfield revitalization that this project and major transit investments will support—transportation options will expand and travel along the corridor will shift toward more sustainable modes. This will help reduce the pollution associated with auto travel, reducing concentrations of PM and TAC due to growing congestion on I-880. The addition of urban greening as amenities and required mitigation measures in new projects will also play an important role in comprehensively addressing air quality and other potential environmental and health risks. Parks, for example, will mitigate air quality impacts by adding trees that filter airborne contaminants while also mitigating soil and groundwater contamination through stormwater features such as bioswales that remove silt and pollution from surface runoff water.

#### 4.b. Environmental Benefits from Infrastructure/Sustainable Reuse

**4.b.i. Policies, Planning and Other Tools:** The project will leverage a host of local and regional policies, tools and infrastructure investments. Community plans adopted across the target area provide zoning, anti-displacement and environmental mitigation measures that together support the development of affordable and mixed-income housing, retention of local residents, and increased

## East Bay Coalition Brownfields Assessment Grant Application

transportation choices, and healthier. Green building programs in each of the coalition partner cities will help insure that redevelopment in the corridor is energy-efficient and promotes human health.

Supporting these policy tools is: regional technical assistance on placemaking, active transportation, and parking management provided by ABAG and the Metropolitan Transportation Commission through the regional PDA planning program; forthcoming Healthy Communities guidelines from the Bay Area Air Quality Management District; and stormwater best management practices disseminated by the SF Estuary Partnership.

Redevelopment in the target area spurred by the grant will leverage major federal, state and regional transit investments, including: the \$200 million East Bay BRT, the first full Bus Rapid Transit route in the Bay Area; more than \$1B in improvements to BART to increase frequency, capacity and safety; and multiple complete streets projects that support active transportation funded by Plan Bay 2013 regional transportation funding.

**4.b.ii. Integrating Equitable Development or Livability Principles:** The project will implement HUD-DOT-EPA Livability Principles as well as the equitable development policies integrated in the adopted local and regional plans of coalition members. To achieve HUD-DOT-EPA Livability Principles, it will **provide more transportation choices** by focusing mixed-use development at transit-supportive densities within walking distance of frequent, affordable public transit (BART and East Bay BRT), improving the public realm and travel conditions for healthy, active transportation such as walking and bicycling; **promote equitable, affordable housing** by setting the stage for projects that implement community plans calling for mixed-income housing that serves all age groups and backgrounds, addresses displacement pressures that are increasingly pushing low-income Bay Area families to move to outer areas of the region with higher transportation costs, and building homes in places with strong green building codes; **enhance economic competitiveness** by reducing the blight in the target area to make it more attractive to investors and small businesses, enlarging the customer base for local shops and services, setting the stage for major job-producing projects envisioned in local plans, and increasing access to transit that reaches the region's major employment and educational opportunities within ½ hour ; **support existing communities** by facilitating land recycling that will revitalize the corridor's communities, make efficient use of existing infrastructure, and focusing development on opportunity sites identified in plans driven by existing communities; **coordinate and leverage federal policies and investment** by taking an integrated implementation approach that aligns with recent federal investments including East Bay BART (\$81M FTA Small Starts Grant), eight pilot projects in the target area to support equitable transit-oriented development and job creation (through the Bay Area's \$5M HUD Sustainable Communities Grant), and hundreds of energy retrofits and renewable energy installations funded through Renewable Energy and Consumer Energy Efficiency Tax Credits; and **value communities and neighborhoods** by facilitating future development that includes much-needed public space, public realm improvements, and health care and other supportive services currently not adequately provided—improving community health, safety and walkability.

The project will also implement Plan Bay Area policy to increase community stability and support affordable housing in transit-rich.<sup>29</sup> By helping build the mixed-income projects identified in local plans for opportunity sites, it implements anti-displacement policies in community plans for target area neighborhoods, such as the International Blvd TOD Plan's policy to provide equitable housing choices that leverage East Bay BRT stops<sup>30</sup> and the Ashland/Cherryland Business District Specific

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<sup>29</sup> ABAG and MTC (2013), *Plan Bay Area*

<sup>30</sup> City of Oakland (2011). *International Blvd TOD Plan*

## East Bay Coalition Brownfields Assessment Grant Application

Plan's policy to reinforce the area's cultural diversity by promoting the area as a cultural and economy center.<sup>31</sup>

### 4.c Economic and Community Benefits

**4.c.i. Economic and Other Benefits:** Completion of these assessments will build a pipeline of mixed-use transit-oriented projects in locally identified opportunity sites along the corridor, positioning these struggling neighborhoods to take advantage of private investment and new local, state and regional funding. In addition to a growing pool of private real estate investment, new competitive public funding sources such as California's Affordable Housing and Sustainable Communities (AHSC) program (which uses the proceeds of Cap and Trade auctions) have emerged to support affordable housing and active transportation. The target area is among the most competitive in the state for this funding as a result of its demographic and environmental challenges; in the fund's first year alone, the corridor received \$13 million in funding which will support construction of 220 units, leveraging \$60 million in additional funds. The fund more than triples in 2016 and is expected to grow further in future years, increasing the timeliness of completing ESAs. The anticipated economic benefit of redevelopment facilitated by this grant is estimated at between \$230 million to \$560 million in immediate benefits and between \$7 million to \$14 million in ongoing annual local government revenue—enough to fund 35 to 70 mid-level police officers. Job creation is estimated at between 1,600 to 3,200 immediate jobs and between 450 and 900 ongoing positions supported by the redevelopment. One to two thousand new mixed-income homes are expected, as well as commercial development, community services and retail.<sup>32</sup> A 1% increase in the value of existing homes in the corridor spurred by reinvestment would create approximately \$10 million in additional property taxes per year.

**4.c.ii: Job Creation Potential: Partnerships with Workforce Development Programs:** The Coalition will identify a process for integrating workforce development programs into the assessment, cleanup and redevelopment of sites for which ESAs are conducted. This will involve consulting with and identifying partners such as the Alameda County Workforce Investment Board (WIB) and recent EPA Environmental Workforce Development and Job Training Grantees in Oakland and Richmond. In the redevelopment process, local first source hiring policies would leverage workforce development programs as well.

## 5 PROGRAMMATIC CAPABILITY AND PAST PERFORMANCE

**5.a. Programmatic Capability:** ABAG is the Council of Governments for the San Francisco Bay Area and is well qualified to undertake the role of administering the Brownfields Coalition Assessment grant. As the designated regional planning agency for the Bay Area, ABAG has a long standing history of successfully tackling complex regional issues such as housing, hazard mitigation, resilience, economic development, regional land use, and the conservation. The staff that will administer the grant are directed by the Executive Director, the Finance Director and Planning Director. **JoAnna Bullock** is a Senior Planner and Grant Administrator; she will oversee the overall project ensuring that coalition partnerships, community engagement and site assessments are managed and projected outcomes are achieved. She has 30 years of project management experience and expertise in grant management, environmental issues including hazardous waste sites and community engagement. **Mark Shorett** is a Senior Regional Planner; he will lead day to day

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<sup>31</sup> County of Alameda (2014).

<sup>32</sup> Calculations in this paragraph based upon National Association of Homebuilders *Economic Impact of Home Building in a Typical Local Area* (2015), assuming between 10 and 20 100-unit multifamily housing projects as a result of redevelopment, consistent with a parcel size of 2 acres at 50 du/acre per local zoning. Similarly sized projects in the area include the Marea Alta apartments and Fruitvale Transit Village.

## East Bay Coalition Brownfields Assessment Grant Application

engagement with coalition members and community partners. Currently managing PDA Implementation and the East Bay Corridor Initiative, he has twelve years of experience in project management, redevelopment, urban design (including schematic architectural and site design), and economic development.

Through a consensus process established in the MOA, ABAG and other coalition members will hire contractors with the expertise required to conduct the ESAs involved in completing the grant. All procurements will follow EPA requirements.

**5.b. Audit Findings:** ABAG's most recent audit did not disclose any significant deficiencies, or material weaknesses or instances of noncompliance material to the basic financial statements. ABAG has implemented procedures to ensure compliance with all reporting requirements of federal grants and maintain evidence of submission accordingly.

### **5.c. Past Performance and Accomplishments**

*5.c.i. Currently or Has Ever Received an EPA Brownfields Grant (N/A)*

#### **5.c.ii. Has Not Received an EPA Brownfields Grant but has Received Other Federal or Non-Federal Assistance Agreements:**

***Purpose:*** ABAG's Resilience Program has received five grant awards from the US Geological Survey (USGS) since 2010 (a total of \$412, 087) to advance hazard mitigation and recovery efforts in the region including: "Using Risk Communication Research for Improved Integration of Hazard, Risk, and Mitigation Information into ABAG's Bay Area Earthquake Website" (2010, \$80,000); "A Sub-Regional Review of Earthquake-related Hazards in the San Francisco Bay Area" (2012, \$80,000); "Bay Area Population and Earthquake Risk" (2013, \$93,000); "Local Government Resilience Toolkit" (2014, \$90,816); "Bay Area Housing Risk Communication" (2015, \$68,271). ABAG also received a Smart Growth Implementation Assistance grant from the Environmental Protection Agency (EPA)'s Smart Growth Program (2014, \$93,000), entitled Creating Safe, Smart Growth Strategies for the San Francisco Bay Area.

***Accomplishments:*** ABAG utilized 2010 and 2012 USGS grants to redesign its natural hazards resilience website and to improve overall communication of risk and distribute mitigation strategies to local governments and the general public. The 2013 USGS grant enabled ABAG to assess the overlapping risks of disaster-vulnerable housing types, vulnerable populations, and areas subject to earthquakes and current and future flooding; this effort culminated in a suite of strategies for local governments for housing and community resilience. ABAG utilized a 2014 grant to refine a selection of these strategies to assist local governments in adopting mitigation and adaptation actions such as soft-story ordinances. A 2015 grant is enabling ABAG to more accurately model housing loss during major disasters and to improve tools to assist residents in retrofitting their homes and preparing for disasters.

The EPA Smart Growth Implementation Assistance grant leveraged the USGS 2013 grant to develop responsive, regionally-appropriate strategies to address the housing and vulnerable population risks identified in the project for both existing and future development.

***2.Compliance with Grant Requirements:*** Our staff worked cooperatively with USGS; tasks were performed according to work plans, work products were delivered on schedule, terms and conditions of past grants were strictly adhered to, all reporting requirements were met, and the grants were properly closed. Staff worked closely with USGS, meeting monthly to develop the deliverable and ensure that the schedule was met.



## **ATTACHMENT A**

### **Letter from California Department of Toxic Substances Control**



**Matthew Rodriguez**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

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**Barbara A. Lee, Director**  
700 Heinz Avenue  
Berkeley, California 94710-2721



**Edmund G. Brown Jr.**  
Governor

**November 20, 2015**

**Ms. Noemi Emeric-Ford**  
Site Assessment Manager  
Brownfields and Site Assessment Section  
USEPA Region 9  
600 Wilshire Boulevard  
Los Angeles, California 90017-3212

**Dear Ms. Emeric-Ford:**

The California Department of Toxic Substances Control (DTSC) has lead regulatory responsibility for investigating and remediating hazardous substances release sites in California. DTSC fully supports the Association of Bay Area Governments (ABAG) grant application for a \$600,000 (\$300,000 for hazardous substances and \$300,000 for petroleum) Community-wide U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County. ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, Hayward and Alameda County.

The coalition proposes to use the Community-Wide Assessment Grant, to assess sites identified by the local jurisdictions based on previous land use and location. Assessments would focus on areas within low-income neighborhoods that have been disproportionately impacted by pollutants and contamination. These Brownfields funds would help advance the growth of housing, local businesses and services within these communities.

**We appreciate the opportunity to voice our support for this crucial funding.**

Ms. Emeric-Ford  
November 20, 2015  
Page Page 2 of 2

Please contact me at (510) 540-3833 or [janet.naito@dtsc.ca.gov](mailto:janet.naito@dtsc.ca.gov) if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Naito".

Janet Naito, Branch Chief  
Berkeley Cleanup Operations Branch  
Brownfields and Environmental Restoration Program

cc: JoAnna Bullock (via electronic mail to: [JoAnnaB@abag.ca.gov](mailto:JoAnnaB@abag.ca.gov))  
Association of Bay Area Governments

## **ATTACHMENT B**

### **Memorandum of Agreement**

#### **East Bay Corridor Brownfields Coalition**

# **MEMORANDUM OF AGREEMENT EAST BAY CORRIDOR BROWNFIELDS COALITION**

This Memorandum of Agreement (MOA) is entered into by and between the following participating entities:

Association of Bay Area Governments  
County of Alameda  
City of Hayward  
City of Oakland  
City of San Leandro

## **I. Purpose of the Agreement**

The purpose of this agreement sets out the terms by which the participating entities will work together to implement a Brownfields site identification and assessment program along the East Bay Corridor. This agreement will remain in effect from July 2016 to June 2019 and Senior Regional Planner Mark Shorett will be the key contact for ABAG.

This agreement sets out the terms by which the County of Alameda and the Cities of Oakland and Hayward will meet, make decisions, select sites, hire consultants and work with stakeholders and the communities surrounding the project area.

## **II. Background**

In September 2013, the East Bay Corridors Initiative was formed as an implementation strategy for realizing Plan Bay Area, the region's long range sustainable growth plan. The East Bay Corridor is divided into two segments: the Oakland-Union City Corridor and the San Pablo Corridor. This agreement concerns a significant portion of the Oakland-Union City segment.

The activities to be undertaken by coalition Participants of the East Bay Corridor Initiative include:

- develop strategies to create thriving neighborhoods and downtowns
- identify and develop funding sources for plan implementation
- endorse joint applications by coalition Participants for grants and other funding that support agreed upon strategies

The East Bay Corridor Brownfields Coalition Assessments align well with the activities of the East Bay Corridors Initiative. Identifying and conducting site assessments along the Oakland, San Leandro, Hayward, Alameda County segment of the corridor will improve public health, advance implementation of local plans, increase marketability of land and greatly enhance land re-use along the corridor.

## **III. Proposed Activities**

The Participants of the coalition will undertake the following activities.

- Meet on a regular basis as determined by coalition Participants
- In partnership with community organizations, develop a robust community engagement plan
- Allocate funding to increase capacity of community organization partners
- Develop a site selection process that prioritizes sites with high redevelopment impact potential

- Hire most appropriate and qualified consultants to conduct site assessments
- Assist with the development of land re-use plans

#### **IV. Roles and Responsibilities**

Each Participant of the coalition will have the following responsibilities:

- Each coalition Participant will assign a representative to the EBC Brownfields Program
- Each coalition Participant will participate in regular meetings, development of public engagement plan, site selection and consultant hiring process

#### **V. Structure and Governance**

For ease of formation and administration and to maintain flexibility, the East Bay Corridor Brownfields Coalition is structured as an unincorporated association of local and regional public entities. The coalition Participants agree that this MOA is independent of any other contract(s) or agreement(s) between or among the coalition Participants, or the contracts(s) or agreement(s) between or among any Corridor Jurisdiction that are promulgated to implement a grant or local plan.

Each coalition Participant will assign a representative and these representatives will collectively coordinate activities undertaken pursuant to this MOA. Through a unanimous vote representatives may establish rules related to decision making for the coalition.

Every representative has the right to appoint an alternative to the coalition.

#### **VI. Participant Resources and Compensation**

The coalition Participants acknowledge that the East Bay Corridor Brownfields Coalition is likely to require some investment of resource to be effective. Each coalition Participant will assign staff, at no cost, to act as its representative.

Financial support will be provided to community and non-profit organizations to facilitate their active participation in the project.

#### **VII. Withdrawal and Termination**

This MOA will continue until terminated by majority vote of the representatives, but coalition Participants may withdraw from this MOA on sixty (60) days notice to other coalition Participants. If a coalition Participant withdraws from the coalition, management of active Phase I and II assessments in their jurisdiction will be transferred to ABAG.

#### **VIII. Amendments**

This MOA may be amended by written agreement executed by the Participants in the same manner as this MOA.

#### **IX. Effective Date**

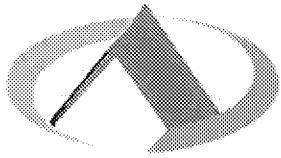
This MOA is effective upon the date the Participants execute the MOA

#### **X. Signatures of Parties' Principals**

**ATTACHMENT C**

**Letters of Support**

**East Bay Corridor Brownfields Coalition Participants**



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT

Chris Bazar  
Agency Director

December 14, 2015

Albert Lopez  
Planning Director

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

224  
West Winton Ave.  
Room 111

Hayward  
California  
94544

phone  
510.670.5400  
fax  
510.785.8793

[www.accd.org/cdd](http://www.accd.org/cdd)

Dear Mr. Rapport:

The County of Alameda is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the County's Ashland-Cherryland Business District (ABCD) Specific Plan, Plan Bay Area, and our ongoing partnership to collaborate with ABAG and our neighboring jurisdictions through the East Bay Corridors Initiative.

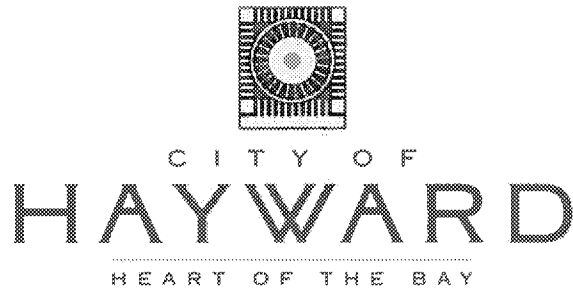
The grant award would set the stage for the redevelopment of key opportunity properties identified by community members and in the ABCD Specific Plan. Strong support exists for creating much-needed community services, mixed-income housing, and economic development in this area, but ongoing concerns regarding environmental issues have limited the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city projects, including our update to the Ashland-Cherryland Specific Plan funded by MTC and ABAG, the REACH youth center, and multiple streetscape improvements. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact us with any questions regarding these commitments.

Sincerely,

Albert Lopez  
Planning Director



November 20, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport:

The City of Hayward is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's Mission Blvd Corridor Specific Plan/Form-Based Code and South Hayward/Mission Boulevard Form-Based Code, Plan Bay Area, and the East Bay Corridors Initiative—our ongoing effort to collaborate with ABAG and our neighboring East Bay jurisdictions.

The grant award would set the stage for the redevelopment of key opportunity properties identified in our recently adopted plans for Mission Boulevard. Strong support exists for creating new mixed-income housing, community services, and job-creating land uses in this area. However, ongoing concerns regarding environmental issues have limited somewhat the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city efforts, including the current Downtown Hayward Specific Plan project, transportation improvements to Mission Boulevard and Foothill Boulevard, and redevelopment sites along Mission Boulevard and in Downtown. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect our cities. Please feel free to contact me with any questions regarding these commitments.

Sincerely,

David Rizk  
Development Services Director  
City of Hayward

# CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Office of the City Administrator  
Department of Economic and Workforce Development

(510) 238-3627  
FAX (510) 238-2226  
TDD (510) 238-3254

December 17, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

The City of Oakland is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the International Boulevard/East 14<sup>th</sup> Street/Mission Boulevard corridor, including five Bay Area Rapid Transit (BART) station areas, in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's recently adopted Coliseum Area Specific Plan, International Boulevard Transit-Oriented Development (TOD) plan, Plan Bay Area, and our ongoing partnership with ABAG and our neighboring jurisdictions in the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by community members. Our recent planning efforts have created momentum for implementing community priorities (i.e. affordable housing, local parks, and job creation) on these sites, but ongoing concerns regarding safety and environmental issues have limited public and private capacity for redevelopment. In addition, the loss of redevelopment agencies and city budgetary limitations has significantly diminished our resources to fund the type of effort that would be supported by this grant. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and continue to participate in the creation of a successful transit corridor between Oakland and Hayward.

The grant would leverage multiple planning and infrastructure investments, including the Oakland Sustainable Neighborhoods Initiative (OSNI) and International Blvd TOD Plan supported by the California Strategic Growth Council (SGC), the East Bay Bus Rapid Transit (BRT) project funded by AC Transit, ongoing investments in BART and improvements to International Blvd and other streets in the corridor funded by the Alameda County Transportation Commission. This application provides an opportunity to build upon these resources while implementing a collaborative local, regional, and corridor vision for smart, healthy, equitable development.

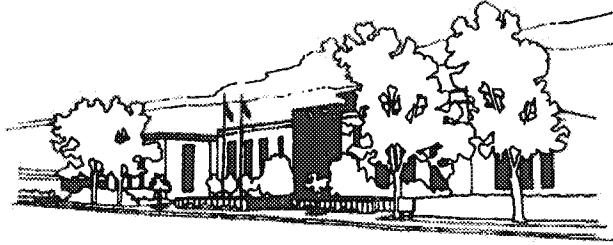
Sincerely,

A handwritten signature in dark ink, appearing to read "Mark Sawicki", with a stylized flourish at the end.

Mark Sawicki  
Director  
Economic & Workforce Development Department

## City of San Leandro

Civic Center, 835 E. 14th Street  
San Leandro, California 94577  
www.sanleandro.org



December 3, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

The City of San Leandro is pleased to support and participate in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of two key City specific plans, the Downtown TOD Strategy and East 14<sup>th</sup> South Area Strategy, as well as Plan Bay Area and our ongoing partnership with ABAG and neighboring East Bay jurisdictions through the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by the City Council and community in our adopted Downtown and East 14<sup>th</sup> Street plans. Strong public support exists for creating much-needed community services, mixed-income housing, and economic development in these areas, but ongoing concerns regarding environmental issues are a factor in developing some of the opportunity sites. The recent loss of our redevelopment agency and our ongoing budgetary limitations have also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple and recent grant-funded City projects including streetscape improvements in the Downtown TOD plan area and the Bay Fair TOD Specific Plan currently underway. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact Tom Liao, Deputy Community Development Director, 510-577-6003, with any questions regarding these commitments.

Sincerely,

Cynthia Battenberg, Community Development Director

Pauline Russo Cutter, Mayor

City Council:

Deborah Cox

Jim Prola

Benny Lee

Ursula Reed

Corina N. López

Lee Thomas



**ATTACHMENT D**

**Letters of Support**

**East Bay Corridor Brownfields Coalition**

**Community Organization Partners**

San Francisco Office  
312 Sutter Street, Suite 510  
San Francisco, CA 94108  
(415) 543-6771

December 17, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

**RE:    U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor**

Dear Mr. Rapport:

Greenbelt Alliance is the champion of the places that make the Bay Area special. We ensure the right development happens in the right places. Through land-use policy and planning expertise, engagement with decision makers, and efforts to educate and engage Bay Area residents, we work to protect the region's open spaces and make sure cities grow in a way that creates great neighborhoods for everyone.

Greenbelt Alliance has worked with community leaders and residents across the Bay Area to develop plans and approaches to bring development that will help meet community needs to areas around transit stations and along major transportation corridors. Done right, growth of this type will help reduce pressure to sprawl into the Bay Area's greenbelt, mitigate our region's impact on the climate, revitalize long neglected areas, and provide homes and access to jobs for Bay Area residents most in need.

Because of its consistency with our objectives, Greenbelt Alliance supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Greenbelt Alliance looks forward to participating in the community engagement process and the overall project. We anticipate that this will be a successful project that has the potential to improve services and increase mixed-income housing and economic development in East 14<sup>th</sup> Street/Mission Boulevard communities.

Sincerely



Jeremy Madsen  
Executive Director



December 14, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

Bay Area Local Initiatives Support Corporation (LISC) supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Bay Area LISC will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marsha G. Murrington". The signature is fluid and cursive, with a horizontal line extending from the end.

Marsha G. Murrington  
Director of Economic Development



*Creating Communities of Opportunity*

---

December 16, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

OCCUR supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The Grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential Brownfields sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

OCCUR will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

Sondra Alexander  
Executive Director



December 11, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

TransForm supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself; Alameda County; and the Cities of Oakland, San Leandro and Hayward.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

TransForm will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely

A handwritten signature in cursive script that reads "Stuart Cohen".

Stuart Cohen  
Executive Director

MAIN OFFICE: 436 14TH STREET, SUITE 600, OAKLAND, CA 94612 | T: 510.740.3150 |  
SACRAMENTO: 717 K STREET, SUITE 300, SACRAMENTO, CA 95814 | T: 916.441.0204 |  
SILICON VALLEY: 48 SOUTH 7TH STREET, SUITE 103, SAN JOSE, CA 95112 | T: 408.406.8074 |

[WWW.TRANSFORMCA.ORG](http://WWW.TRANSFORMCA.ORG)

004542 2020-10-29



Date: December 9, 2015

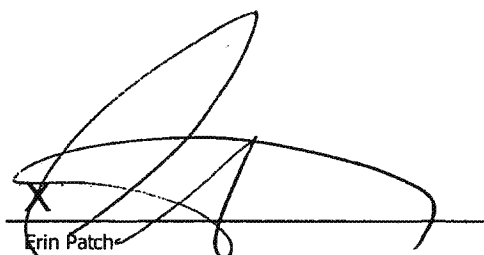
The Unity Council supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward, and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. In light of the current Bus Rapid Transit line in development along International Boulevard/E. 14<sup>th</sup> Street, this vital artery is poised to play a center role in the area's ability to undergo sustainable growth.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential Brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

The Unity Council will participate in the community engagement plan and the overall project. We look forward to successful project outcomes including improved services and increased mixed-income housing and economic development in our communities.

Sincerely,



Erin Patch  
Executive Vice President

**The Unity Council**  
1900 Fruitvale Ave Ste 2A, Oakland, CA 94601  
510-535-6900 Office • 510-534-7771 Fax • [www.unitycouncil.org](http://www.unitycouncil.org)

## Application for Federal Assistance SF-424

**\* 1. Type of Submission:**

- ☐ Preapplication  
☒ Application  
☐ Changed/Corrected Application

**\* 2. Type of Application:**

- ☒ New  
☐ Continuation  
☐ Revision

**\* If Revision, select appropriate letter(s):**

**\* Other (Specify):**

**\* 3. Date Received:**

12/18/2015

**4. Applicant Identifier:**

**5a. Federal Entity Identifier:**

**5b. Federal Award Identifier:**

**State Use Only:**

**6. Date Received by State:**

**7. State Application Identifier:**

**8. APPLICANT INFORMATION:**

**\* a. Legal Name:**

Association of Bay Area Governments

**\* b. Employer/Taxpayer Identification Number (EIN/TIN):**

94-2832478

**\* c. Organizational DUNS:**

0790739200000

**d. Address:**

**\* Street1:**

MetroCenter, 101 8th Street

**Street2:**

**\* City:**

Oakland

**County/Parish:**

**\* State:**

CA: California

**Province:**

**\* Country:**

USA: UNITED STATES

**\* Zip / Postal Code:**

94607-4756

**e. Organizational Unit:**

**Department Name:**

Planning Department

**Division Name:**

**f. Name and contact information of person to be contacted on matters involving this application:**

**Prefix:**

Ms.

**\* First Name:**

JoAnna

**Middle Name:**

**\* Last Name:**

Bullock

**Suffix:**

**Title:**

Senior Grants Administrator

**Organizational Affiliation:**

Association of Bay Area Governments

**\* Telephone Number:**

510 464-7968

**Fax Number:**

510 464-7985

**\* Email:**

joannab@abag.ca.gov

004544 2020-10-29

## Application for Federal Assistance SF-424

### \* 9. Type of Applicant 1: Select Applicant Type:

E: Regional Organization

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

### \* 10. Name of Federal Agency:

Environmental Protection Agency

### 11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

### \* 12. Funding Opportunity Number:

EPA-OSWER-OBLR-15-04

\* Title:

FY16 Guidelines for Brownfields Assessment Grants

### 13. Competition Identification Number:

Title:

### 14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

### \* 15. Descriptive Title of Applicant's Project:

East Bay Corridor Brownfields Coalition Assessments

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

004545 2020-10-29

**Application for Federal Assistance SF-424****16. Congressional Districts Of:**\* a. Applicant \* b. Program/Project 

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

**17. Proposed Project:**\* a. Start Date: \* b. End Date: **18. Estimated Funding (\$):**\* a. Federal \* b. Applicant \* c. State \* d. Local \* e. Other \* f. Program Income \* g. TOTAL **\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**☒ a. This application was made available to the State under the Executive Order 12372 Process for review on .☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.☐ c. Program is not covered by E.O. 12372.**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ \*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**Prefix: \* First Name: Middle Name: \* Last Name: Suffix: \* Title: \* Telephone Number: Fax Number: \* Email: \* Signature of Authorized Representative: \* Date Signed: 

004546 2020-10-29

Message

---

**From:** Bee, Maria [MBee@oaklandcityattorney.org]  
**Sent:** 9/21/2017 6:56:25 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Excellent – thanks!

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, September 21, 2017 11:54 AM  
**To:** Bee, Maria  
**Cc:** Dorka, Lilian; Rhines, Dale  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Dear Maria:

Thanks for the prompt response. The meeting will take place on the fourth floor, but ECRCO will send someone to the lobby to escort you. The entrance you should use (as there are a few of them) is the north side entrance, which is located just beside the Federal Triangle Metro Stop. If you are standing at the top of the escalator to the metro, facing away from the metro, the north side entrance is on your right.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** Bee, Maria [mailto:MBee@oaklandcityattorney.org]  
**Sent:** Thursday, September 21, 2017 2:31 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Cc:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Hi Debra,  
The City of Oakland contingent is:

Barbara Parker	City Attorney
Maria Bee	Special Counsel
Claudia Cappio	Assistant City Administrator

I have the address for the EPA, but is there a suite number? Please let me know if you need additional information.

Thanks,  
Maria

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, September 21, 2017 11:25 AM  
**To:** Bee, Maria

**Cc:** Dorka, Lilian; Rhines, Dale

**Subject:** Logistics for Meeting with the EPA and DOT

Dear Maria:

We here at the EPA look forward to the opportunity to meet with you and your colleagues in person. Since security is always fairly tight in federal buildings, could you please provide me with a list of the individuals who will be attending the September 26, 2017 meeting? This will allow us to coordinate your arrival with security and so speed your entrance to the building. If you could provide both the name and the title of each participant, it would be most helpful.

Thanks for your attention to this matter.

Sincerely,

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ *Martin Luther King, Jr. , 18th April, 1959*

This is a confidential attorney-client communication. This email contains confidential attorney-client privileged information and is for the sole use of the intended recipient(s). Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message and any attachments. [v1.3]

Message

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**From:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]  
**Sent:** 8/31/2017 6:49:23 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** RE: Voicemails

Are you working on a resolution framework draft? When you have a draft of it, I'd like to see it over here, so we can comment on it and include our own substantive portions.

Ryan

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, August 31, 2017 2:45 PM  
**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>  
**Subject:** RE: Voicemails

Thank you very much. We are feeling under the gun to get a good working document assembled and approved by internal partners. This should help.

*Debra E. McGhee*  
Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Thursday, August 31, 2017 2:10 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Voicemails

I've been involved with this situation for a while and have a pretty good grasp of a lot of the background here.

This may help you get up to speed. Attached are my personal notes on the two Position Statement papers that the City and the Port sent us. I break down their positions and their arguments, and note my own thoughts on that with a "me." You may find this useful, as those position statements are pretty dense. Keep in mind, these are just my personal notes on these.

I've started putting together a brief description of the substantive elements of a draft agreement as DOT would like to see it as well. As I see it, the main issues here are truck management in West Oakland and air emissions control. But overarching both of those, and crucial to the development of any strategy made to address both of those, is meaningful public engagement. So that's really the first element of any resolution for them, is the development of a meaningful

public engagement strategy around the entire OAB redevelopment project, that we can work with them to develop, that will then be used to create a comprehensive Truck Management Plan, and an air quality plan, also with our assistance. That's how I see it. A resolution agreement to the complaint can be used to kickstart the creation of those items and to formalize our involvement in their creation.

Ryan

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

---

**From:** McGhee, Debra [<mailto:mcghee.debra@epa.gov>]  
**Sent:** Thursday, August 31, 2017 2:03 PM  
**To:** Fitzpatrick, Ryan (OST) <[ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov)>  
**Subject:** RE: Voicemails

Here's the strategy I'm employing at the moment –

I am going through the items at the back of the Complaint which are entitled "Less Discriminatory Alternatives." I'm thinking of those as the complainants' ask, and then reviewing the documents we have on hand that relate to each of the topic areas. It appears that steps have been taken that would get us halfway there to addressing some of the issues, but there needs to be, I think, more enforcement. For example, there is already a state ordinance about idling and the construction plan includes a rendering of how this will be posted. But will it be enforced?

I believe that we would appear more credible during early discussions if we are well versed in information that has been submitted and the steps that have been taken. If the effort that I've described above appears to be duplicative of something that you are already undertaking, please let me know.

That said, sure—why not have a meeting. Next week, perhaps.

*Debra E. McGhee*  
Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** Fitzpatrick, Ryan (OST) [<mailto:ryan.fitzpatrick@dot.gov>]  
**Sent:** Thursday, August 31, 2017 12:31 PM  
**To:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>  
**Subject:** Voicemails

Hey Debra:

I got your voicemails. I also got calls from some other folks at EPA, so I think it'd be a good idea to have a meeting next week and discuss our strategy. We can all ask questions, bring everyone up to speed, and get us all working on the projects necessary to be ready for our meeting with the City and Port on September 26.

Ryan

**Ryan N. Fitzpatrick, Esq.**

Lead Civil Rights Analyst

Departmental Office of Civil Rights

Office of the Secretary

U.S. Department of Transportation

W78-312

(202) 366-1979

Message

---

**From:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]  
**Sent:** 8/31/2017 4:31:28 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Voicemails

Hey Debra:

I got your voicemails. I also got calls from some other folks at EPA, so I think it'd be a good idea to have a meeting next week and discuss our strategy. We can all ask questions, bring everyone up to speed, and get us all working on the projects necessary to be ready for our meeting with the City and Port on September 26.

Ryan

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 11/29/2017 6:55:21 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** RE: 2017 11 15 Briefing Doc.docx

Thanks

---

**From:** McGhee, Debra  
**Sent:** Wednesday, November 29, 2017 1:54 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>  
**Cc:** Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>  
**Subject:** 2017 11 15 Briefing Doc.docx

I am sending along an update on Oakland.

***1. City of Oakland City of Oakland/ Port of Oakland (EPA File #s 13R-17-R9/ 14R-17-R9) (Case Managers Debra McGhee and Katsumi Keeler)***

Background: EarthJustice, on behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP) filed a complaint with EPA ECRCO and DOT Department of Civil Rights alleging that City of Oakland's has engaged in a pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB"), while failing to ensure adequate health and safety protections for the surrounding community. The complaint is also filed against the Port of Oakland and alleges a continuous expanding of the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation. describing a pattern of conduct by the City and Port of Oakland that inflicts unjustified and unequal impacts on the historically black community of West Oakland. The complaint further alleges that the City and Port of Oakland's actions inflict unjustified and unequal impacts on the historically black community of West Oakland in violation of Title VI.

Status:

- **On September 14, 2017** ECRCO and CRFLO collaborated in an informal call with the Port's attorney to discuss public disclosure obligations of the port vis-à-vis negotiation of a resolution. According to the Port's attorney, dialogue leading up to an agreement can be kept confidential until 10 days before the Board actually votes to enter into such an agreement.
- ECRCO provided the draft framework of a resolution agreement to Recipients for review on **September 19, 2017**.
- A conference call was held on **September 22, 2017**, to plan for the September 26, 2017 meeting with Recipients.
- **On September 26, 2017**, representatives from the Port and City traveled to D.C. to confer with EPA and DOT, as described above, the Port and City had been provided with the framework of a resolution agreement in order to ensure that they were clear on the nature of the framework and associated expectations and obligations.
  - During the meeting, the City and Port came with a prepared presentation to urge EPA and DOT to consider dismissing the complaint without a finding or an informal resolution. The City and Port stated that they had a "robust" public engagement process and that they were unprepared to commit

to specific actions given that the dialogue in which they were currently engaged with stakeholders might, if followed to its conclusion, result in different goals or actions being adopted.

- The City and Port sought to convince EPA and DOT that, if the complaints were held open without a finding or an agreement, the dispute giving rise to the complaint would be resolved, allowing both agencies to close their cases as moot. The City and Port stated that they were unconvinced that they had violated Title VI in anyway.
  - ECRCO, CRFLO, Region 9 and DOT met with DOJ to update regarding status on **October 24, 2017**.
- 
- On November 12, 2017, ECRCO received a joint City of Oakland/Port of Oakland letter stating that Recipients agree to work on the Informal Resolution Agreement and enclosed a redlined copy of the Agreement.
  - ECRCO is collaborating with Region 9 in review of the proposed language provided by the Recipients. A call with DOT to determine next steps is scheduled for **December 6, 2017**.

Message

---

**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 9/26/2017 4:23:43 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** RE: Air Quality

Thanks

---

**From:** McGhee, Debra  
**Sent:** Tuesday, September 26, 2017 12:02 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>  
**Subject:** Air Quality

From the City and Port's OAB website—

Over course of planning for the redevelopment they say they have engaged in 251 public meetings. They have addressed the City Council with plans 50 times. They are subject to 660 mitigation mandates, they say:

Oakland Global is subject to more than **660 mitigation mandates and conditions of approval by the City of Oakland and the Port of Oakland**, including the establishment of a strict air quality regimen in compliance with regulations of BAAQMD

Just heads up on some of the push back to anticipate.

[http://oaklandglobal.com/assets/oakland\\_global\\_faq.pdf](http://oaklandglobal.com/assets/oakland_global_faq.pdf)

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ Martin Luther King, Jr. , 18th April, 1959

Message

---

**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 6/1/2017 6:25:16 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** FW: EPA City of Oakland/ Port of Oakland FFA  
**Attachments:** Oakland Brownfields Grant doc 1.pdf; Oakland Brownfields Grant doc 2.pdf; Oakland Brownfields Grant doc 3.pdf; [Untitled].pdf; [Untitled].pdf

FYI

---

**From:** Temple, Kurt  
**Sent:** Thursday, June 01, 2017 2:23 PM  
**To:** Gelman, Laurie (CRT) <Laurie.Gelman@usdoj.gov>  
**Cc:** O'Lone, Mary <olone.mary@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>  
**Subject:** EPA City of Oakland/ Port of Oakland FFA

Laurie:

Here's where we are on the **City of Oakland**. This week we found some Oakland City Council Minutes which lead us to an EPA Brownfields Assessment Grant going to **Association of Bay Area Governments (ABAG) in the amount of \$550,000**. We believe these minutes reflect the **City's decision to accept \$110,000 of that**. It's an FY2016 grant that ends FY2019. We believe that usaspending link below connects to that ABAG grant.

Document 1: Staff request dated 12/9/2016 that the Oakland City Council authorize the Oakland City Administrator to **accept a \$110,000 grant from the EPA for Brownfields assessment**.

Document 2: City of Oakland legislation details showing approval on 1/10/17.

Document 3: 1/10/2017 record of approval by the Oakland City Counsel (4 ayes, 0 nays)

<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=1FBDEACB-08C4-4A91-8730-10BECE6ACBFE&AwardID=54100394&AwardType=G>

As for the **Port of Oakland**, we have the following FFA

It's a grant to Repower up to 4 Rubber Tire Gantry Cranes in the Port of Oakland with Tier 4 engines that will significantly reduce air emissions. That started on December 1, 2013 and was continued through June 30, 2017. It probably goes on longer given that, the grant was for property – engines.

<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=375851E9-9E49-4051-B4F8-29B2BD99EAD4&AwardID=12519152&AwardType=G>  
<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=3E07B06C-B650-4111-96B9-A95636CBA952&AwardID=12519152&AwardType=G>  
<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=522B027F-0DC3-4338-93E1-BE5AF7CB1303&AwardID=12519152&AwardType=G>  
<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=5BD236DD-3908-4B73-B428-FAD9B70B856F&AwardID=12519152&AwardType=G>

Look forward to talking about this.

Kurt T. Temple  
Senior Advisor  
External Civil Rights Compliance Office  
EPA Office of General Counsel  
1200 Pennsylvania Avenue, NW  
Room 2524B  
Washington, D.C. 20460  
202-564-7299

OPEN COMPLAINT INVESTIGATIONS							
Case Number		Date Received	Days Since Filing	Enitity	ECRCO Staff Assigned	CRFLO LEAD	CRFLO BACK UP
1	14R-17-RD	04/06/17	104	Oakland, City of and Port of Oakland and Board	Farrell	O'Lone	Johnson
2	16R-17-R4	04/28/17	82	Tallassee II (Stone's Throw)	Stein	Biffl	
3	13R-16-R4	02/03/16	532	Dothan Landfill (ADEM)	Martinez	Biffl	
4	08R-15-R4	03/03/15	869	JCDH (Walter Coke)	Peterson	Brisendine	O'Lone
4	03R-15-R4	02/06/15	894	JCDH (ABC COKE)	Peterson	Brisendine	O'Lone
5	12R-13-R4	06/03/13	1507	Arrowhead II (ADEM)	Martinez	Biffl	
6	07R-10-R4	12/21/10	2402	FDEP Sewage Spill	Nieves-Munoz	Johnson	O'Lone
7	01R-09-R4	01/22/09	3100	FDEP Public Health	Nieves-Munoz	Johnson	O'Lone
8	13R-07-R4	07/03/07	3669	Orange County Water and Sewer Authority (OWASA)	Stein	O'Lone	Goerke
9	19RD-16-R5	02/25/15	875	City of Flint	Keeler	O'Lone	Goerke
10	18RD-16-R5	02/25/15	875	Genessee Co. CWA MI	Keeler	O'Lone	Goerke
11	17RD-16-R5	02/25/15	875	MDEQ CWA: MI	Keeler	O'Lone	Goerke
12	27R-16-R6	06/18/16	396	ADEQ/Georgia Pacific/West Crossett	Khan	Johnson	O'Lone
13	13R-14-R6	09/16/14	1037	Albuquerque	McGhee	O'Lone	Johnson
14	44NO-16-R9	09/16/16	306	HI Dept. of Agriculture	Martinez	O'Lone	Wilson
15	45RNO-16-R9	09/14/16	308	Hawaii Dept. of Agriculture	Martinez	O'Lone	Wilson
16	03R-12-R9	03/02/12	1965	Salinas	Stein	Johnson	Brisendine
17	08R-97-R9	06/05/97	7349	California/South Prescott	Nieves-Munoz	O'Lone	Brisendine
18	10R-14-R10	08/15/14	1069	LRAPA	Stein	Johnson	Biffl
Parties in the Cases Below are Engaged in ADR							
1	28R-16-R3	05/11/16	336	MDNR Brandywine	Martinez	Biffl	
2	29R-16-R3	05/11/16	336	MDE Brandywine	Martinez	Biffl	
3	30R-16-R3	05/11/16	336	MDNR Brandywine TB Coalition: MD	Martinez	Biffl	
4	11R-14-R4	09/02/14	953	NC DEQ (DENR) – Swine Feeding Op.: NC	Farrell	O'Lone	Johnson
The Following Cases Resulted in Resolution Agreements which are being Monitored							
Case Number	Date Resolved	Days Under Res. Agreement	Recipient	ECRCO Staff Assigned	CRFLO LEAD	CRFLO BACK UP	

1	02N0-16-R4	04/14/17	96	Georgia Department of Agriculture	Peterson	Biffi	Johnson
2	09R-02-R6	01/19/17	181	New Mexico Environmental Department	Nieves- Munoz	Biffi	
3	01R-00-R6	05/26/17	54	Texas Commission on Environmental Quality (Beaumont)	Keeler	O'Lone	

07/19/17

**Cell:** G6

**Comment:** McGhee, Debra:

Brisendene is Collette Harrell's married name.

**Cell:** H8

**Comment:** McGhee, Debra:

In some cases, no back-up counsel has been assigned, hence some empty cells.


Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/26/2017 2:14:59 PM  
**To:** Harrison, Brenda [Harrison.Brenda@epa.gov]  
**Subject:** FW: Forwarding the Agenda

<!--[if lte mso 15 || CheckWebRef]-->

McGhee, Debra has shared a OneDrive for Business file with you. To view it, click the link below.

 2017 09 22 FINAL AGENDA - Meeting with City and Port of Oakland.docx

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<!--[endif]-->

Do we have any better quality paper to use for printing the Agenda? I think that might be nice.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** McGhee, Debra  
**Sent:** Tuesday, September 26, 2017 9:06 AM  
**To:** Veney, Carla <Veney.Carla@epa.gov>  
**Cc:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Katsumi Keeler (Keeler.Katsumi@epa.gov) <Keeler.Katsumi@epa.gov>; Harrison, Brenda <Harrison.Brenda@epa.gov>  
**Subject:** Forwarding the Agenda

Hi, Carla—In preparation for the meeting today, I wanted to share the Agenda we’ve settled on with you so that you could provide it to Kevin in advance.

Of course feel free to contact me if anything raises a question or if there are other items to plan or discuss before 1:00.

Cheers!

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/26/2017 1:05:39 PM  
**To:** Veney, Carla [Veney.Carla@epa.gov]  
**CC:** Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]; Harrison, Brenda [Harrison.Brenda@epa.gov]  
**Subject:** Forwarding the Agenda

<!--[if lte mso 15 || CheckWebRef]-->

McGhee, Debra has shared a OneDrive for Business file with you. To view it, click the link below.



2017 09 22 FINAL AGENDA - Meeting with City and Port of Oakland.docx

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<!--[endif]-->

Hi, Carla—In preparation for the meeting today, I wanted to share the Agenda we've settled on with you so that you could provide it to Kevin in advance.

Of course feel free to contact me if anything raises a question or if there are other items to plan or discuss before 1:00.

Cheers!

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 7/25/2017 12:48:05 PM  
**To:** Rhines, Dale [rhines.dale@epa.gov]  
**Subject:** FW: SCMP and Tracker for City of Oakland 13R-17-R9  
**Attachments:** 13R-17-R9 City of Oakland SCMP TRACKER.xlsx; 13R-17-R9 City of Oakland (SCMP).docx

FYI

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.” ~ Martin Luther King, Jr. , 18th April, 1959**

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**From:** Farrell, Ericka  
**Sent:** Monday, July 24, 2017 1:39 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>  
**Subject:** SCMP and Tracker for City of Oakland 13R-17-R9

Hey Debra,

Attached is the SCMP and Tracker for the City of Oakland. Still working on the IP.

Ericka S. Farrell  
Case Manager  
External Civil Rights Compliance Office  
202-564-0717

Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/21/2017 6:47:25 PM  
**To:** Veney, Carla [Veney.Carla@epa.gov]  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Got it.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ *Martin Luther King, Jr. , 18th April, 1959*

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**From:** Veney, Carla  
**Sent:** Thursday, September 21, 2017 2:47 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

I have never paid attention to the arch. I normally tell folks who are coming via metro that our entrance is to the right of you after coming up the second set of escalators.

---

**From:** McGhee, Debra  
**Sent:** Thursday, September 21, 2017 2:44 PM  
**To:** Veney, Carla <Veney.Carla@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

The North side entrance is the one right there, under the arch when you come out of the Federal Triangle Metro, right?

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ *Martin Luther King, Jr. , 18th April, 1959*

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**From:** Veney, Carla  
**Sent:** Thursday, September 21, 2017 2:43 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Ok, thank you

---

**From:** McGhee, Debra  
**Sent:** Thursday, September 21, 2017 2:42 PM

**To:** Veney, Carla <Veney.Carla@epa.gov>  
**Subject:** FW: Logistics for Meeting with the EPA and DOT

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** Bee, Maria [mailto:MBee@oaklandcityattorney.org]  
**Sent:** Thursday, September 21, 2017 2:31 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Cc:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Hi Debra,  
The City of Oakland contingent is:

Barbara Parker	City Attorney
Maria Bee	Special Counsel
Claudia Cappio	Assistant City Administrator

I have the address for the EPA, but is there a suite number? Please let me know if you need additional information.

Thanks,  
Maria

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, September 21, 2017 11:25 AM  
**To:** Bee, Maria  
**Cc:** Dorka, Lilian; Rhines, Dale  
**Subject:** Logistics for Meeting with the EPA and DOT

Dear Maria:

We here at the EPA look forward to the opportunity to meet with you and your colleagues in person. Since security is always fairly tight in federal buildings, could you please provide me with a list of the individuals who will be attending the September 26, 2017 meeting? This will allow us to coordinate your arrival with security and so speed your entrance to the building. If you could provide both the name and the title of each participant, it would be most helpful.

Thanks for your attention to this matter.

Sincerely,

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/21/2017 6:44:28 PM  
**To:** Veney, Carla [Veney.Carla@epa.gov]  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

The North side entrance is the one right there, under the arch when you come out of the Federal Triangle Metro, right?

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." -- Martin Luther King, Jr. , 18th April, 1959**

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**From:** Veney, Carla  
**Sent:** Thursday, September 21, 2017 2:43 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Ok, thank you

---

**From:** McGhee, Debra  
**Sent:** Thursday, September 21, 2017 2:42 PM  
**To:** Veney, Carla <Veney.Carla@epa.gov>  
**Subject:** FW: Logistics for Meeting with the EPA and DOT

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." -- Martin Luther King, Jr. , 18th April, 1959**

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**From:** Bee, Maria [mailto:MBee@oaklandcityattorney.org]  
**Sent:** Thursday, September 21, 2017 2:31 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Cc:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Hi Debra,  
The City of Oakland contingent is:

Barbara Parker	City Attorney
Maria Bee	Special Counsel

Claudia Cappio

Assistant City Administrator

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Thanks,  
Maria

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]

**Sent:** Thursday, September 21, 2017 11:25 AM

**To:** Bee, Maria

**Cc:** Dorka, Lilian; Rhines, Dale

**Subject:** Logistics for Meeting with the EPA and DOT

Dear Maria:

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Thanks for your attention to this matter.

Sincerely,

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 11/15/2017 10:15:51 PM  
**To:** O'Lone, Mary [olone.mary@epa.gov]; Rhodes, Julia [Rhodes.Julia@epa.gov]  
**CC:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** FW: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9  
**Attachments:** City and Port Joint Proposed Informal Resolution Agreement.pdf; City and Port DRAFT Informal Resolution Agreement REDLINE to EPA DOT Draft.pdf; CLEAN Port Draft Informal Resolution Agreement.docx

Attached please see the City and Port's response to our IR proposal. I have loaded these documents onto the working folder on the shared drive, and saved them as part of the permanent, official case file under correspondence.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** Keeler, Katsumi  
**Sent:** Wednesday, November 15, 2017 4:35 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** FW: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

---

**From:** Dorka, Lilian  
**Sent:** Sunday, November 12, 2017 4:15 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Yvette Rivera <yvette.rivera@dot.gov>; ryan.fitzpatrick@dot.gov  
**Subject:** Fwd: Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Sent from my iPhone

Begin forwarded message:

**From:** "Michele Heffes" <mheffes@portoakland.com>  
**To:** "charles.james@dot.gov" <charles.james@dot.gov>, "Dorka, Lilian" <Dorka.Lilian@epa.gov>  
**Cc:** "Parker, Barbara" <BParker@oaklandcityattorney.org>, "Bee, Maria" <MBee@oaklandcityattorney.org>, "Cappio, Claudia (CCappio@oaklandnet.com)" <CCappio@oaklandnet.com>, "Danny Wan" <dwan@portoakland.com>, "Michele Heffes" <mheffes@portoakland.com>, "Chris Lytle" <clytle@portoakland.com>, "Michele Heffes" <mheffes@portoakland.com>, "Smith, Jamie" <JSmith@OaklandCityAttorney.org>, "Laurice Henry-Ross" <lhenry@portoakland.com>  
**Subject:** Title VI : DOT#2017-0092 and EPA File Nos. 13R-17-R9; 14R-17-R9

Dear Ms. Dorka and Mr. James:

Attached please find a November 10, 2017, letter (including the 2 referenced attachments) from Oakland City Attorney, Barbara J. Parker, and Port Attorney, Danny Wan, concerning the above-referenced matter. Hard copies will be sent via First Class Mail. Please let me know if you have any questions.

Michele

Michele Heffes  
Assistant Port Attorney  
Port Attorney's Office  
530 Water Street  
Oakland, CA 94607  
Phone: (510) 627-1348  
[mheffes@portoakland.com](mailto:mheffes@portoakland.com)

*ATTORNEY-CLIENT PRIVILEGED*

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*CONFIDENTIAL COMMUNICATION*

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 10/25/2017 4:31:20 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** updates to Albuquerque and Oakland

***1. City of Oakland/ Port of Oakland (EPA File #s 13R-17-R9/ 14R-17-R9) (Case Managers Debra McGhee and Katsumi Keeler)***

Background: EarthJustice, on behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP) filed a complaint with EPA ECRCO and DOT Department of Civil Rights alleging that City of Oakland's has engaged in a pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB"), while failing to ensure adequate health and safety protections for the surrounding community. The complaint is also filed against the Port of Oakland and alleges a continuous expanding of the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation. describing a pattern of conduct by the City and Port of Oakland that inflicts unjustified and unequal impacts on the historically black community of West Oakland. The complaint further alleges that the City and Port of Oakland's actions inflict unjustified and unequal impacts on the historically black community of West Oakland in violation of Title VI.

Status:

- **On August 17, 2017 :** ECRCO and DOT collaborated in a call with Complainants
- **On September 14, 2017** ECRCO and CRFLO collaborated in an informal call with the Port's attorney to discuss public disclosure obligations of the port vis-à-vis negotiation of a resolution. According to the Port's attorney, dialogue leading up to an agreement can be kept confidential until 10 days before the Board actually votes to enter into such an agreement.
- ECRCO provided the draft framework of a resolution agreement to Recipients for review on **September 19, 2017**.
- **On September 26, 2017**, representatives from the Port and City traveled to D.C. to confer with EPA and DOT, as described above, the Port and City had been provided with the framework of a resolution agreement in order to ensure that they were clear on the nature of the framework and associated expectations and obligations.
  - During the meeting, the City and Port delivered a presentation aimed at convincing EPA and DOT to dismiss the complaint without a finding or an informal resolution. The City and Port stated that they had a "robust" public engagement process and that they were unprepared to commit to specific actions given that the dialogue in which they were currently engaged with stakeholders might, if followed to its conclusion, result in different goals or actions being adopted.
  - The City and Port sought to convince EPA and DOT that, if the complaints were held open without a finding or an agreement, the dispute giving rise to the complaint would be resolved, allowing both agencies to close their cases as moot. The City and Port stated that they were unconvinced that they had violated Title VI in anyway.
  - **On Tuesday, October 24, 2017** – DOT and ECRCO briefed DOJ representatives on the progress of the complaint investigation.

- **By November 3, 2017**– we anticipate receiving a red-lined draft resolution agreement from the City and the Port by the end of the October in response to the proposed language presented in September.

Regulatory/ Legal Requirements:

- Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.*
- EPA’s nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Considerations and Recommendations:

- EPA, Region 9, DOT, and other agencies have been involved for some time with the community issues underlying this complaint as well as the governmental authorities involved.
- Given the conversation with recipients’ counsel on August 7, 2017, and statements from counsel regarding prior discussions and alleged breach of agreements/distrust between recipients and complainants, ECRCO believes that ADR is not the first best approach at this time and positioned its discussion with recipients toward an informal agreement approach.

Action Needed: None at this time.

\*\*\*\*\*  
\*\*\*\*\*

**1. *Albuquerque-Bernalillo County Air Quality Control Board (ABCAQ) and Albuquerque Environmental Health Department (EHD) 13R-14-R6 (Case Manager: Debra McGhee)***

Background: Case filed by Southwest Organizing Project (SWOP), alleging that the Air Quality program jointly administered by Albuquerque and surrounding Bernalillo County has discriminated by allowing a disproportionate number of permitted facilities to operate in three specific neighborhoods which are concentrated for Latinos.

Regulatory/ Legal Requirements:

- Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.*
- EPA’s nondiscrimination regulation found at 40 Code of Federal Regulations (C.F.R.) Part 7

Status:

- SCMP and IP have been completed and shared with CRFLO.
- Representatives of both parties have been interviewed and records reviewed.
- A Region 6 staff member attended and reported out on one of EHD’s Air Quality Coalition meetings. Information gleaned by interviews and observation of the public interaction has been used in drafting the proposed resolution
- On **August 29, 2017**, ECRCO, CRFLO and Region 6 held a conference call with attorneys for the recipients during which proposed language for an informal resolution agreement was reviewed and discussed.
- During the August 29, 2017 conference call, the attorneys for the Recipients expressed a willingness to respond to the draft informal resolution agreement with proposals. Recipients remain concerned about the cost of localized air monitoring and further question whether air monitoring sites are appropriately determined through the complaint filing process.

- **On September 29, 2017 ECRCO** received responses to the draft resolution agreement from both the EHD and the Board. Both the City and the Board stated that they believed they had acted in Compliance with Title VI, they did not believe that additional federal monitoring of their activities (such as would result from entering into a resolution agreement) was appropriate and that they would prefer to have ECRCO complete its investigation and issue its findings.
- Both the EHD and the Board addressed the merits of the case in their cover letter. The EHD submitted nine exhibits in support of its position.
- Case managers are working to bring complaint to closure according to the following timetable:
  - 10/27/2017 – Team meets at staff level to come to consensus on next steps
  - 11/01/2017 – RFIs (one for each recipient) draft in circulation for CRFLO Comments, ECRCO Mngment approval
  - 11/08/2017 – RFI mailed to Recipients
  - 11/15/2017 – Call to Recipients to discuss RFI, provide clarification, discuss formatting of answers. Will also revisit possibility of Informal Resolution.
  - 12/04/2017 – Response due from Recipients
  - 12/30/2017 – Review of response complete. Follow up interviews with Complainants complete
  - 01/30/2017 – Final documents issued (LOF, LOC or Letter of Insufficient Evidence) or Resolution Agreement finalized.

Considerations and Recommendations:

- Recipients have apparently updated their website and taken other steps to bring their process into compliance with the ECRCO's procedural safeguards as outlined in the draft agreement.

Action Needed: ECRCO and CRFLO must coordinate to determine the scope of investigative activity necessary to bring complaint processing to a conclusion.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/21/2017 6:41:56 PM  
**To:** Veney, Carla [Veney.Carla@epa.gov]  
**Subject:** FW: Logistics for Meeting with the EPA and DOT

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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**From:** Bee, Maria [mailto:MBee@oaklandcityattorney.org]  
**Sent:** Thursday, September 21, 2017 2:31 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Cc:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>  
**Subject:** RE: Logistics for Meeting with the EPA and DOT

Hi Debra,  
The City of Oakland contingent is:

Barbara Parker	City Attorney
Maria Bee	Special Counsel
Claudia Cappio	Assistant City Administrator

I have the address for the EPA, but is there a suite number? Please let me know if you need additional information.

Thanks,  
Maria

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, September 21, 2017 11:25 AM  
**To:** Bee, Maria  
**Cc:** Dorka, Lilian; Rhines, Dale  
**Subject:** Logistics for Meeting with the EPA and DOT

Dear Maria:

We here at the EPA look forward to the opportunity to meet with you and your colleagues in person. Since security is always fairly tight in federal buildings, could you please provide me with a list of the individuals who will be attending the September 26, 2017 meeting? This will allow us to coordinate your arrival with security and so speed your entrance to the building. If you could provide both the name and the title of each participant, it would be most helpful.

Thanks for your attention to this matter.

Sincerely,

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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This is a confidential attorney-client communication. This email contains confidential attorney-client privileged information and is for the sole use of the intended recipient(s). Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message and any attachments. [v1.3]

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/21/2017 6:41:37 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** RE: Meeting with Oakland (Port and City) Re: Informal Resolution of the Title VI Complaint (Call in number: 1-866-299-3188; Code: 202-564-5551)

Thanks—That is helpful.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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**From:** Temple, Kurt  
**Sent:** Thursday, September 21, 2017 2:37 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Cc:** Rhines, Dale <rhines.dale@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>  
**Subject:** RE: Meeting with Oakland (Port and City) Re: Informal Resolution of the Title VI Complaint (Call in number: 1-

**Personal Matters / Ex. 6**

Debra: See below.

-----Original Appointment-----

**From:** Minoli, Kevin  
**Sent:** Thursday, September 07, 2017 7:49 AM  
**To:** Minoli, Kevin; [howard.carro-lopez@dot.gov](mailto:howard.carro-lopez@dot.gov); Johnson, Johahna; [ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov); Redden, Kenneth; Rhines, Dale; Grow, Richard; Packard, Elise; [deeana.jang@dot.gov](mailto:deeana.jang@dot.gov); McGhee, Debra; Strauss, Alexis; O'Lone, Mary; Garnett, Desean; Dorka, Lilian; [yvette.rivera@dot.gov](mailto:yvette.rivera@dot.gov); Temple, Kurt  
**Cc:** Trudeau, Shaun; Mills, Derek  
**Subject:** Meeting with Oakland (Port and City) Re: Informal Resolution of the Title VI Complaint (Call in number: 1-866-299-3188; Code: 202-564-5551)  
**When:** Tuesday, September 26, 2017 1:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** EPA Headquarters, 1200 Pennsylvania Ave. NW, Washington, DC (William Jefferson Clinton Building), 4th Floor, Room 4045

Please enter via our north side entrance. Upon clearing security, someone will escort you to the meeting location. Any questions, please call 202-564-8040. Thank you.

Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 8/25/2017 7:15:08 PM  
**To:** Strauss, Alexis [Strauss.Alexis@epa.gov]  
**Subject:** RE: Oakland Case Team

Well, I would love that. San Francisco is such a great town!

Debra E. McGhee  
Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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-----Original Message-----

From: Strauss, Alexis  
Sent: Friday, August 25, 2017 2:28 PM  
To: McGhee, Debra <mcghee.debra@epa.gov>  
Subject: RE: Oakland Case Team

Welcome - we hope you'll pay us a visit before long as we work on this matter together, Best wishes,  
Alexis

Alexis Strauss  
Acting Regional Administrator  
E.P.A. Region 9  
75 Hawthorne Street  
San Francisco, CA 94105  
415-972-3572

-----Original Message-----

From: McGhee, Debra  
Sent: Friday, August 25, 2017 9:22 AM  
To: Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Carlson, Terence (OST) <Terence.Carlson@dot.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johanna <Johnson.Johanna@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Farrell, Ericka <Farrell.Ericka@epa.gov>  
Subject: Oakland Case Team

Dear Colleagues at EPA and DOT--

I wanted to let you know that I will be taking over Ericka Farrell's role in processing the complaints filed against the City of Oakland and the Port of Oakland. This change is necessary because Ericka has accepted a professional development detail to another Office within the EPA. It sounds exciting, but I'll let Ericka provide more information on where she is going and what she'll be working on rather than trying to speak for her.

I have been included on most e-mails regarding this case, I think, but I still wanted to introduce myself and invite you to call me if it ever seems like a necessary or at least helpful next step. I am reading through the responses from the city and the port and I will be studying DOT's Investigative Plan as well. I received and reviewed the Region's summation of issues they judge appropriate for inclusion in any Resolution Agreement we draft.

A brief word about my background -- I spent a couple decades at HUD working on Fair Housing issues in headquarters and in the field and joined the EPA ECRCO in January of this year. I'm looking forward to digging into this case.

Sincerely,

Debra E. McGhee  
Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 12/5/2017 3:05:50 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]; Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** FW: West Oakland: draft language for III.B and C.  
**Attachments:** W.O.T6 III.B and C Rev 11\_28\_17.docx

Richard deleted this language, which had been added by Recipients:

*On October 18, 2017, and at the October 20, 2017, meeting, the BAAQMD Deputy Air Pollution Control Officer responded favorably to the Port's October 18, 2017, proposed emission control strategies. Attendees at the October 20, 2017, meeting included representatives of EPA Region 9, the BAAQMD, the Air Resources Board, Alameda County Department of Public Health, the Alameda County Transportation Commission, the Metropolitan Transportation Commission, and the City of Oakland.*

I would like to know what his concern was. Not saying he's wrong, but just wondering what he is thinking.

Otherwise, he is chiefly suggesting that their commentary about actions already taken be moved to the Background section. I agree with his thinking on that.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
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**From:** McGhee, Debra  
**Sent:** Monday, December 4, 2017 4:39 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** FW: West Oakland: draft language for III.B and C.

Study this Tuesday morning.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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---

**From:** Temple, Kurt  
**Sent:** Monday, December 4, 2017 9:26 AM

**To:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>; Keeler, Katsumi <[Keeler.Katsumi@epa.gov](mailto:Keeler.Katsumi@epa.gov)>

**Subject:** Fw: West Oakland: draft language for III.B and C.

Debra and Katsumi: When we received this last week, Lilian asked us to weigh in on this and whether to send to DOT ahead of our call on Wednesday "as is" or if there is something we have to supplement what Richard provided. I have reviewed, and I don't have anything to add. Please let me know your thoughts.

Thanks, Kurt

---

**From:** Grow, Richard

**Sent:** Wednesday, November 29, 2017 1:02 PM

**To:** Dorka, Lilian; Temple, Kurt

**Cc:** McGhee, Debra; Garnett, Desean; Reyes, Deldi; Israels, Ken; Keeler, Katsumi

**Subject:** West Oakland: draft language for III.B and C.

Lilian and Kurt

Attached is our current thinking on a mark-up of the draft resolution agreement for sections III.B & C. It is based on the four point approach I shared last week (included again below), but compressed into a couple of sentences. We could use the more detailed description if/when the City/Port ask us to elaborate, or in further iterations if the discussions proceed. There are two additions we are continuing to discuss here and with our S/L "advisors", (1) requiring a "**down payment**" of some sort, i.e. a fixed list of half a dozen or so specific measures which we (and our S/L contacts) agree are ready and needed now, and (2) periodic "**reopener**" (ie every 3 years) in which there is a feasibility analysis for measures not previously adopted or other emerging technologies.

Cutting across all of this verbiage is the bar implicitly set by the Ports of LA/Long Beach and their "Clean Air Action Plan" adopted last month (<http://www.cleanairactionplan.org/>). There is a fundamental equity issue at stake when the community of West Oakland is asked to put up with any lesser degree of mitigation than the communities neighboring the Ports of LA/LB. This would seem to be the minimum criteria for "less discriminatory alternatives" as required to be considered under Title VI.

Home - Clean Air Action Plan

[www.cleanairactionplan.org](http://www.cleanairactionplan.org)

The ports of Long Beach and Los Angeles joined to improve air quality in the South Coast Air Basin by adopting the San Pedro Bay Ports Clean Air Action Plan (CAAP), aimed at reducing health risks posed by air pollution from port-related ships, trains, trucks, terminal equipment and harbor craft.

Undoubtedly this language needs further refinement and any edits, questions, critique, discussion would be welcome.

Regarding the timing of our response to the City and Port, there would be a real advantage in us getting some sort of "markers" out there soon, given that there is so much activity underway right now on both the

mitigation and truck plan fronts, very little of it showing much in the way of real progress. If this remains the case several months down the road, it would be good for us to be able to point back to, say, a date in December, in which we advised the City and Port of our basic expectations.

Richard

Last week's 4 point framework:

**In considering mitigation approaches for any equipment, installation, operation:**

1. **General requirement: "Best Available" air quality mitigation measures as the overall general requirement.**

[Set the conceptual bar]

2. **For "availability" consider measures already in place, adopted or committed**

[where to look; this is where we point at other Ports and GM communities, LA/LB CAAP, other ports anywhere; best practice docs etc etc.]

3. **Factors to be considered: technical feasibility, economic factors, legal constraints and other factors;**

[documenting how those factors were evaluated; create a record; and if most stringent approach is not adopted, the justification for measures rejected, identification of best candidates for pilots, further study.]

4. **Periodic technical review.**

[In LA/LB CAAP this is either 2 or 3 years]

--

The basic idea here is to translate the Clean Air Act/CARB BACT (more like LAER in CA) requirement to ports and port/GM communities; mimic the "top down" BACT approach from EPA's PSD BACT guidance; list the factors to be considered and require documentation of how they are considered, in effect a justification if the most stringent approach is not adopted. Include a 2-3 year reopener/revisit. My read of the DOJ T6 manual is that we are entitled to require recipients to develop an "evidentiary record" for their decisionmaking in resolving Title VI concerns.

What's missing from the CAA's stationary source BACT approach, which puts the burden for these analyses on a permit "applicant", is the role of the F/S/L air agencies in accepting or rejecting the "applicants" BACT determination. In the present situation, by way of these requirements being included in a settlement agreement, that role seems to be in the hands of whomever is overseeing the settlement. In this case the current plan is for the EPA and DOT civil rights offices (with us/R9 in a "technical advisory" role) to carry out that oversight for 2 years following the agreement.

If forced to justify adaptation of this BACT-like approach, I would note that a.q. is the impact of concern in this case (complaint), (1) point to CAA requirements, policy and guidance as the right place to look for analogies, and (2) analogize West Oakland to “nonattainment” under the CAA, in this case with regard to the well documented disproportionate impacts bearing down on this predominantly minority community. Arguably this would be seen as not only “nonattainment” but as a “severe” classification, which under the CAA triggers the most arduous mitigation requirements. Basically the area is out of “attainment” with regard to the Title VI nondiscrimination requirements and we are attempting to set a bar for what is required in such an area where the driver of that nonattainment status is air quality.

Message

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**Sent:** 12/4/2017 9:39:19 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** FW: West Oakland: draft language for III.B and C.  
**Attachments:** W.O.T6 III.B and C Rev 11\_28\_17.docx

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*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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**To:** McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>  
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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/6/2017 3:12:51 PM  
**To:** Grow, Richard [Grow.Richard@epa.gov]  
**CC:** Temple, Kurt [Temple.Kurt@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Strauss, Alexis [Strauss.Alexis@epa.gov]; Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** Regional comments on the Draft Resolution

Hello, all. Kurt and I have been reading through and discussing your suggestions vis-à-vis the draft resolution agreement for the Port and City of Oakland. We'd like to have an informal conversation with later today, if possible, as we have a few follow up questions.

Would there be a time today that you might be available for such a discussion? Probably 30 to 45 minutes are needed. We'd be very appreciative. Thank you.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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Message

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**Sent:** 8/25/2017 1:21:21 PM  
**To:** Harrison, Brenda [Harrison.Brenda@epa.gov]  
**Subject:** Labels

Thanks so much for offering to create labels for me. I'm the kind of weird, tightly wound person who VERY MUCH prefers tidy printed labels, as it happens.

Okay—

The drawer will be labeled —

Oakland, Port of and City of  
13R-17-R9 and  
14R-17-R9

Inside I'll have six wide gusset folders, with the following labels —

- Intake Documents
- Complainant Evidence
- Recipient 13 (Port) Evidence
- Recipient 14 (City) Evidence
- Other Evidence
- Deliberative Materials

Ideally the, case number would be included on each of the gusset folder labels so that if the folder is left out we know immediately which case it belongs to.

Thanks again

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~~ Martin Luther King, Jr. , 18th April, 1959



Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/1/2017 5:13:56 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**CC:** Dorka, Lilian [Dorka.Lilian@epa.gov]; Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** Oakland Draft RA.docx  
**Attachments:** Oakland Draft RA.docx

For your review.

Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/1/2017 3:44:22 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** Oakland Draft RA.docx  
**Attachments:** Oakland Draft RA.docx

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 1/25/2018 2:15:57 PM  
**To:** Martinez, Brittany [Martinez.Brittany@epa.gov]  
**Subject:** FW: DRAFT FRAMEWORK FOR INFORMAL RESOLUTION AGREEMENT - In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland  
**Attachments:** 2017 09 19 DRAFT FRAMEWORK of Informal Resolution Agreement to Share with OAKLAND City and Port.docx  
**Importance:** High

This is the draft that was shared with the participants prior to our meeting. After we sent it out, Mary voiced a concern (below). Hope this helps you get started on your project.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** O'Lone, Mary  
**Sent:** Monday, September 25, 2017 5:14 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>  
**Cc:** Johnson, Johanna <Johnson.Johanna@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** FW: DRAFT FRAMEWORK FOR INFORMAL RESOLUTION AGREEMENT - In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland  
**Importance:** High

Kurt,  
Regarding one of our comments that was not adopted -- can you please explain what it means for the Port & the City to sign the informal resolution Agreement jointly? It appears twice in the draft Agreement.

I think there is a high probability the question will come up in your meeting tomorrow. If it does, ECRCO will need to field it.

Also, while Debra & I spoke with the Port attorney, we never connected with the attorney from the City about any public release of the draft Agreement before it is signed. The upshot of what the Port attorney explained is that all of the negotiations & the deliberations of the Board on the Agreement would not be public. They might vote on it in public after it is all agreed to. The Port attorney thought the City probably operated the same way. It looks as though I will not be attending the meeting tomorrow, so you might want to buttonhole the City attorney beforehand just to confirm that.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

(202) 564-4992

---

**From:** Dorka, Lilian

**Sent:** Tuesday, September 19, 2017 7:13 PM

**To:** MBee@oaklandcityattorney.org; mheffes@portoakland.com

**Cc:** Packard, Elise <Packard.Elise@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Redden, Kenneth <Redden.Kenneth@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Charles.james@dot.gov; Strauss, Alexis <Strauss.Alexis@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>

**Subject:** DRAFT FRAMEWORK FOR INFORMAL RESOLUTION AGREEMENT - In Prep for 9/26/17 Meeting with Port of Oakland and City of Oakland

**Importance:** High

Hello Maria and Michele,

EPA and DOT look forward to our meeting next Tuesday to discuss informal resolution of the Title VI complaint filed with our Agencies (DOT #2017-0093 and EPA File Nos. 13R-17-R9; 14R-17-R9). As promised, we are sharing the attached **Draft Framework for an Informal Resolution Agreement** which we hope will assist with our discussion next Tuesday. Please don't hesitate to contact us if you have any questions at this time and, again, we look forward to seeing you soon.

Lilian

Lilian Sotolongo Dorka, Esq.  
Director, External Civil Rights Compliance Office  
EPA, Office of General Counsel  
202-564-9649  
WJC-N Room 2450

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 1/25/2018 2:08:27 PM  
**To:** Martinez, Brittany [Martinez.Brittany@epa.gov]  
**Subject:** FW: 2017 09 22 Draft Agenda DORKA.docx  
**Attachments:** 2017 09 22 Draft Agenda DORKA.docx

Here is the Agenda for the Meeting with City and Port of Oakland.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** McGhee, Debra  
**Sent:** Friday, September 22, 2017 2:13 PM  
**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Johnson, Johanna <Johnson.Johanna@epa.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>  
**Cc:** McGhee, Debra <mcghee.debra@epa.gov>; Cockfield, Erva (OST) <erva.cockfield@dot.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Israels, Ken <Israels.Ken@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Huezo, Hector (OST) <hector.o.huezo@dot.gov>  
**Subject:** 2017 09 22 Draft Agenda DORKA.docx

# *AGENDA*

September 26, 2017

1:00 PM EDT

EPA Headquarters,  
Washington, DC 20460

Type of Meeting: Meeting to Discuss Resolution of DOT Case  
# 2017-0213 and EPA File Nos. 13R-17-R9 and 14R-17-R9

Meeting Facilitator: [Facilitator Name]

1. Introductions .....All Parties
2. Welcome and Opening Remarks from EPA.
3. Opening Remarks from DOT .....
4. Opening Remarks from the City of Oakland .....
5. Opening Remarks from the Port of Oakland .....
6. Framework for Informal Resolution Agreement: Walk Through and Discussion
7. Next Steps

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/14/2017 2:32:16 PM  
**To:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

Ryan – do you have an agreement that your agency has entered into recently that reflects your current standard language? I would love to look it over before the meeting. Thanks.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Thursday, September 14, 2017 9:33 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Huezo, Hector (OST) <hector.o.huezo@dot.gov>; Cockfield, Erva (OST) <erva.cockfield@dot.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>; grow.r@att.net  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

Good stuff Richard, we should definitely discuss these points today

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, September 14, 2017 9:32 AM  
**To:** Grow, Richard <Grow.Richard@epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Huezo, Hector (OST) <hector.o.huezo@dot.gov>; Cockfield, Erva (OST) <erva.cockfield@dot.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>; grow.r@att.net  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

Thank you Richard. Good thoughts. We will keep your observations in mind during discussions today even if you are unable to join.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** -- *Martin Luther King, Jr. , 18th April, 1959*

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**From:** Grow, Richard

**Sent:** Wednesday, September 13, 2017 10:37 PM

**To:** Fitzpatrick, Ryan (OST) <[ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov)>; Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>; Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>; McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>; Rhines, Dale <[rhines.dale@epa.gov](mailto:rhines.dale@epa.gov)>; Keeler, Katsumi <[Keeler.Katsumi@epa.gov](mailto:Keeler.Katsumi@epa.gov)>; Johnson, Johahna <[Johnson.Johahna@epa.gov](mailto:Johnson.Johahna@epa.gov)>; O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Garnett, Desean <[Garnett.Desean@epa.gov](mailto:Garnett.Desean@epa.gov)>; Rivera, Yvette (OST) <[yvette.rivera@dot.gov](mailto:yvette.rivera@dot.gov)>; Jang, Deeana (OST) <[deeana.jang@dot.gov](mailto:deeana.jang@dot.gov)>; Caro-Lopez, Howard (OST) <[howard.caro-lopez@dot.gov](mailto:howard.caro-lopez@dot.gov)>; Huezo, Hector (OST) <[hector.o.huezo@dot.gov](mailto:hector.o.huezo@dot.gov)>; Cockfield, Erva (OST) <[erva.cockfield@dot.gov](mailto:erva.cockfield@dot.gov)>; Hart, Daryl (MARAD) <[daryl.hart@dot.gov](mailto:daryl.hart@dot.gov)>; Kizito-Ramos, Rachel (MARAD) <[Rachel.Kizito-Ramos@dot.gov](mailto:Rachel.Kizito-Ramos@dot.gov)>; [grow.r@att.net](mailto:grow.r@att.net)

**Subject:** Re: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

# Deliberative Process / Ex. 5

Richard

Personal Matters / Ex. 6

---

**From:** Fitzpatrick, Ryan (OST) <[ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov)>

**Sent:** Wednesday, September 13, 2017 8:04 AM

**To:** Dorka, Lilian; Temple, Kurt; McGhee, Debra; Rhines, Dale; Keeler, Katsumi; Johnson, Johanna; O'Lone, Mary; Grow, Richard; Garnett, Desean; Rivera, Yvette (OST); Jang, Deeana (OST); Caro-Lopez, Howard (OST); Huezo, Hector (OST); Cockfield, Erva (OST); Hart, Daryl (MARAD); Kizito-Ramos, Rachel (MARAD)

**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

For discussion, I've attached DOT's comments on the EPA framework. Thanks again for taking the initiative on developing this.

Ryan

**Ryan N. Fitzpatrick, Esq.**

Lead Civil Rights Analyst

Departmental Office of Civil Rights

Office of the Secretary

U.S. Department of Transportation

W78-312

(202) 366-1979

-----Original Appointment-----

**From:** Dorka, Lilian [<mailto:Dorka.Lilian@epa.gov>]

**Sent:** Tuesday, September 12, 2017 2:29 PM

**To:** Dorka, Lilian; Temple, Kurt; McGhee, Debra; Rhines, Dale; Keeler, Katsumi; Johnson, Johanna; O'Lone, Mary; Grow, Richard; Garnett, Desean; Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Jang, Deeana (OST)

**Subject:** As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

**When:** Thursday, September 14, 2017 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** Conference Call 1 **Conference Line/Code / Ex. 6**

Call #

**Conference Line/Code / Ex. 6**

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 11/16/2017 3:52:32 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** RE: Meeting re City an Port response and draft Framework Markup

Okie dokie.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** Temple, Kurt  
**Sent:** Thursday, November 16, 2017 10:27 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** Re: Meeting re City an Port response and draft Framework Markup

This is just EPA folks -- us, CRFLO and Region 9

---

**From:** McGhee, Debra  
**Sent:** Thursday, November 16, 2017 10:26:27 AM  
**To:** Temple, Kurt  
**Subject:** RE: Meeting re City an Port response and draft Framework Markup

Do we use the confidential number with other agencies? Just a thought. . .

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** Temple, Kurt  
**Sent:** Thursday, November 16, 2017 10:13 AM  
**To:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>  
**Cc:** Harrison, Brenda <Harrison.Brenda@epa.gov>  
**Subject:** Re: Meeting re City an Port response and draft Framework Markup

The number and code for today's call re Oakland

## Conference Line/Code / Ex. 6

---

**From:** Temple, Kurt

**Sent:** Monday, November 13, 2017 1:23 PM

**To:** Temple, Kurt; Dorka, Lilian; Rhines, Dale; McGhee, Debra; Keeler, Katsumi; Rhodes, Julia; O'Lone, Mary; Garnett, Desean; Grow, Richard; Strauss, Alexis

**Cc:** Harrison, Brenda

**Subject:** Meeting re City an Port response and draft Framework Markup

**When:** Thursday, November 16, 2017 11:30 AM-12:30 PM.

**Where:** Room 2528

## Conference Line/Code / Ex. 6

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 5/31/2017 7:10:58 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** RE: Oakland JR

Sorry, one more question – did we recommend acceptance for complaints against both Recipients?

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** Temple, Kurt  
**Sent:** Wednesday, May 31, 2017 3:05 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** Farrell, Ericka <Farrell.Ericka@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>  
**Subject:** Re: Oakland JR

Mary has reviewed. Mary and I and team are supposed to talk to DOJ this week (Daria Neal). DOJ has had difficulty scheduling this week. We were supposed to talk yesterday but looks like it will be Thursday or Friday. Kurt

---

**From:** McGhee, Debra  
**Sent:** Wednesday, May 31, 2017 2:58 PM  
**To:** O'Lone, Mary; Temple, Kurt  
**Cc:** Farrell, Ericka; Keeler, Katsumi  
**Subject:** RE: Oakland JR

Any change in the status of this JR?

Still – under review by CRFL?

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

---

**From:** O'Lone, Mary  
**Sent:** Friday, May 26, 2017 8:39 AM  
**To:** Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>  
**Cc:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>; Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>; Keeler, Katsumi <[Keeler.Katsumi@epa.gov](mailto:Keeler.Katsumi@epa.gov)>  
**Subject:** RE: Oakland JR

Sure.

Just confirming my basic understanding from the memo. There is an act by City w/in 180 days, but there is no EPA FFA identified. You anticipate DOT will establish jurisdiction over City (and maybe Port too), therefore no need to develop argument to establish EPA jurisdiction over City.

For Port, there is EPA FFA, but there is no Port action that falls w/in the 180 days. As far as you know, the only way EPA could assert jurisdiction is through waiver.

We can talk about these questions at the meeting, but have you started an analysis for good cause waiver?

If DOT has FFA to both, will you still recommend EPA accept against Port?

Have you looked into whether the Port has its procedural safeguards in place?

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** Temple, Kurt  
**Sent:** Thursday, May 25, 2017 12:52 PM  
**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>  
**Cc:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>; Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>; Keeler, Katsumi <[Keeler.Katsumi@epa.gov](mailto:Keeler.Katsumi@epa.gov)>  
**Subject:** Oakland JR

Mary: As we discussed, here is the Oakland JR. Let's get together to discuss. And we can loop in Laurie Gelman as appropriate.

Thanks, Kurt

Kurt T. Temple  
Senior Advisor  
External Civil Rights Compliance Office  
EPA Office of General Counsel  
1200 Pennsylvania Avenue, NW  
Room 2524B  
Washington, D.C. 20460  
202-564-7299

Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 11/16/2017 3:26:27 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** RE: Meeting re City an Port response and draft Framework Markup

Do we use the confidential number with other agencies? Just a thought. . .

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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---

**From:** Temple, Kurt  
**Sent:** Thursday, November 16, 2017 10:13 AM  
**To:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Rhodes, Julia <Rhodes.Julia@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>  
**Cc:** Harrison, Brenda <Harrison.Brenda@epa.gov>  
**Subject:** Re: Meeting re City an Port response and draft Framework Markup

The number and code for today's call re Oakland

**Conference Line/Code / Ex. 6**

---

**From:** Temple, Kurt  
**Sent:** Monday, November 13, 2017 1:23 PM  
**To:** Temple, Kurt; Dorka, Lilian; Rhines, Dale; McGhee, Debra; Keeler, Katsumi; Rhodes, Julia; O'Lone, Mary; Garnett, Desean; Grow, Richard; Strauss, Alexis  
**Cc:** Harrison, Brenda  
**Subject:** Meeting re City an Port response and draft Framework Markup  
**When:** Thursday, November 16, 2017 11:30 AM-12:30 PM.  
**Where:** Room 2528

**Conference Line/Code / Ex. 6**

## Appointment

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/22/2017 4:20:37 PM  
**To:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Grow, Richard [Grow.Richard@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Johnson, Johanna [Johnson.Johanna@epa.gov]; O'Lone, Mary [olone.mary@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Huevo, Hector (OST) [hector.o.huevo@dot.gov]; Cockfield, Erva (OST) [erva.cockfield@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; grow.r@att.net  
**CC:** Strauss, Alexis [Strauss.Alexis@epa.gov]; Israels, Ken [Israels.Ken@epa.gov]; Reyes, Deldi [Reyes.Deldi@epa.gov]  
**BCC:** DCRoomARN2528/DC-ARN-OCR-Rooms [DCRoomARN2528@epa.gov]  
**Subject:** Preparation for September 26 Meeting with Oakland Port and City  
**Location:** Conference Call//ECRCO Conference Room  
**Start:** 9/22/2017 6:00:00 PM  
**End:** 9/22/2017 7:00:00 PM  
**Show Time As:** Tentative

<!--[if lte mso 15 || CheckWebRef]-->

McGhee, Debra has shared a OneDrive for Business file with you. To view it, click the link below.

 2017 09 22 Draft Agenda DORKA.docx

<!--[endif]-->

Call to plan for Meeting with Recipients. A draft Agenda will be circulated prior to the meeting.

**Conference Line/Code / Ex. 6**

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 11/16/2017 3:24:03 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** RE: Meeting re City an Port response and draft Framework Markup

I will do that, Kurt.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ *Martin Luther King, Jr. , 18th April, 1959*

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**From:** Temple, Kurt  
**Sent:** Thursday, November 16, 2017 10:20 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** Fw: Meeting re City an Port response and draft Framework Markup

Debra: Can you initiate this call from the conference room? I am working at home today. Kurt

---

**From:** Temple, Kurt  
**Sent:** Thursday, November 16, 2017 10:12 AM  
**To:** Dorka, Lilian; Rhines, Dale; McGhee, Debra; Keeler, Katsumi; Rhodes, Julia; O'Lone, Mary; Garnett, Desean; Grow, Richard; Strauss, Alexis  
**Cc:** Harrison, Brenda  
**Subject:** Re: Meeting re City an Port response and draft Framework Markup

The number and code for today's call re Oakland

**Conference Line/Code / Ex. 6**

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**From:** Temple, Kurt  
**Sent:** Monday, November 13, 2017 1:23 PM  
**To:** Temple, Kurt; Dorka, Lilian; Rhines, Dale; McGhee, Debra; Keeler, Katsumi; Rhodes, Julia; O'Lone, Mary; Garnett, Desean; Grow, Richard; Strauss, Alexis  
**Cc:** Harrison, Brenda  
**Subject:** Meeting re City an Port response and draft Framework Markup  
**When:** Thursday, November 16, 2017 11:30 AM-12:30 PM.  
**Where:** Room 2528

**Conference Line/Code / Ex. 6**

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 5/17/2017 3:42:23 PM  
**To:** Farrell, Ericka [Farrell.Ericka@epa.gov]  
**CC:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** RE: Oakland

We've been putting this in the Reg Review for too long—it's getting obvious that we are missing all the deadlines.

- ECRCO acknowledged receipt of the complaint to EarthJustice, City of Oakland and Port of Oakland on April 7, 2017.
- ECRCO had preliminary conversations with DOT and Region 9.
- A joint teleconference with DOT and Region 9 was held on **April 13, 2017**, to discuss the case, roles, and issues relating to possible acceptance of these complaints.
- A follow up conference call with DOT, Region 9 and DOJ will be held toward the end of the week of April 17, 2017, to nail down jurisdictional authority, acceptance of the complaint and case management issue.
- The week of **April 24, 2017**, ECRCO is completing the jurisdictional review, and has been in communication with DOT and Region 9 this week about the same. ECRCO has been researching the FFA prong of our jurisdictional assessment, with the focus on certain Brownfields grants as the potential jurisdictional hook. ECRCO has been working this week on nailing this down with the Brownfields office.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** McGhee, Debra  
**Sent:** Wednesday, May 17, 2017 11:41 AM  
**To:** Farrell, Ericka <Farrell.Ericka@epa.gov>  
**Cc:** Katsumi Keeler (Keeler.Katsumi@epa.gov) <Keeler.Katsumi@epa.gov>  
**Subject:** Oakland

Could we get together for about 20 minutes on this case at 12:15 or 12:30? I want to come up with a plan to move it before next week's Reg Review meeting.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ *Martin Luther King, Jr. , 18th April, 1959*

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 5/10/2017 6:37:08 PM  
**To:** Goerke, Ariadne [Goerke.Ariadne@epa.gov]  
**Subject:** Johahna

Hi, Ariadne –

Quick question – will Johahna be taking over the West Crosset Georgia Pacific case (which was the substance of the call yesterday)? Both Johahna and Mary attended the call.

Also – who do you plan to assign to Port of Oakland?

Feel free to call if this isn't clear. I'm at my desk.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/22/2017 2:26:48 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** RE: Port - City Oakland JURISDICTIONAL REVIEW.docx

Thanks, Kurt. I'll look this over.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." ~ Martin Luther King, Jr. , 18th April, 1959**

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**From:** Temple, Kurt  
**Sent:** Friday, September 22, 2017 10:01 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** Port - City Oakland JURISDICTIONAL REVIEW.docx

I used a combination of USAspending links and .pdf documents to support my jurisdictional determination.

Kurt

Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 5/10/2017 6:13:27 PM  
**To:** Farrell, Ericka [Farrell.Ericka@epa.gov]; Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** Port of Oakland CRFLO Assignment?

Do we know who is going to be the CRFLO Person on Port of Oakland?

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." ~ Martin Luther King, Jr. , 18th April, 1959**

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 4/18/2017 6:40:05 PM  
**To:** Harrison, Brenda [Harrison.Brenda@epa.gov]  
**Subject:** Numbers?

What are the case numbers for City of Oakland and Port of Oakland, please? Thanks.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." ~ Martin Luther King, Jr. , 18th April, 1959**

## Appointment

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/20/2017 2:34:20 PM  
**To:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Grow, Richard [Grow.Richard@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; O'Lone, Mary [olone.mary@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Huevo, Hector (OST) [hector.o.huevo@dot.gov]; Cockfield, Erva (OST) [erva.cockfield@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; grow.r@att.net  
**BCC:** DCRoomARN2528/DC-ARN-OCR-Rooms [DCRoomARN2528@epa.gov]  
**Subject:** Preparation for September 26 Meeting with Oakland Port and City  
**Location:** Conference Call//ECRCO Conference Room  
**Start:** 9/22/2017 6:00:00 PM  
**End:** 9/22/2017 7:00:00 PM  
**Show Time As:** Tentative

Call to plan for Meeting with Recipients. A draft Agenda will be circulated prior to the meeting.

Conference Line/Code / Ex. 6

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/19/2017 8:06:15 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** FW: Tuesday

**Importance:** High

Sorry kurt. If you tell me where it is on your desk I can look for it.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** Dorka, Lilian  
**Sent:** Tuesday, September 19, 2017 4:02 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>  
**Cc:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Tuesday  
**Importance:** High

Kurt, do you have my copy of the draft agreement that was discussed last week with my notes re language we agreed to at the meeting? Debra says she gave that to you. I want to honor DOT suggested language as much as possible and I also want to honor language that was discussed at the meeting. I am concerned that we may have just taken suggested language from CRFLO but not everyone participated at this last meeting?

If you have my copy with my notes in it, would it be possible for you to give me a quick call?

---

**From:** Temple, Kurt  
**Sent:** Tuesday, September 19, 2017 3:29 PM  
**To:** Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>; Rhines, Dale <[rhines.dale@epa.gov](mailto:rhines.dale@epa.gov)>  
**Cc:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>  
**Subject:** Re: Tuesday

I believe Michele Heffes is the main Port contact and Barbara Parker is the main City contact. Now Mary (Debra) may have talked to other folks in their respective offices when reaching out on the framework sharing info. But, I believe the main contacts remain.

---

**From:** Dorka, Lilian  
**Sent:** Tuesday, September 19, 2017 2:47:28 PM  
**To:** Temple, Kurt; Rhines, Dale  
**Cc:** McGhee, Debra  
**Subject:** RE: Tuesday

Thanks Kurt! Glad Ryan's injuries are not as serious as they could have been (concussion or worse.) Thanks for staying tuned on the big issues pending right now but please take care of Ryan. If we really, really, need you, we know how to reach you.

004613 2020-10-29

I did have one question. I have asked that we share the draft framework with the city and port by 5:00 pm today. I am happy to send it on behalf of both agencies and copy others. However, I know different folks have had different contacts – even with different attorneys. Is there agreement re who is the main contact for each recipient? (I spoke to Michelle for the Port but perhaps you/Mary/Ryan have spoken to others??)

Bottom line, who are the appropriate main contacts for city and port? Thanks!!

---

**From:** Temple, Kurt  
**Sent:** Tuesday, September 19, 2017 12:49 PM  
**To:** Rhines, Dale <[rhines.dale@epa.gov](mailto:rhines.dale@epa.gov)>; Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>  
**Cc:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>  
**Subject:** Re: Tuesday

Sorry for missing the potluck. Wish I was there Almost done with Ryan - some dental damage, but his braces may have saved far worse, though he did break a bracket. Coordinating with dentist and ortho. His foot is okay. I'm on the hook here as my wife is heading out of town. May have to take him back to ortho.

I'm going to put in for leave for today as already had partial leave in for this afternoon, but have been on with Debra with Oakland and back and forth with Brittany on ADEM. I will be monitoring my phone, so let me know if something is needed.

---

**From:** Rhines, Dale  
**Sent:** Tuesday, September 19, 2017 8:27:55 AM  
**To:** Dorka, Lilian; Temple, Kurt  
**Cc:** McGhee, Debra  
**Subject:** RE: Tuesday

If you need anything done here, just let us know. Hope he is ok.

-----Original Message-----

**From:** Dorka, Lilian  
**Sent:** Tuesday, September 19, 2017 5:54 AM  
**To:** Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>  
**Cc:** Rhines, Dale <[rhines.dale@epa.gov](mailto:rhines.dale@epa.gov)>; McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>  
**Subject:** Re: Tuesday

Wow hope he is ok!!

Sent from my iPhone

> On Sep 19, 2017, at 12:13 AM, Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)> wrote:

>

> I have to take my son to maybe 1-2 doctors in am. He made face to basketball pole contact in a pickup ball game. Messed up teeth and braces and big toe. Sorry. I will check in.

>

> Kurt

>

> Sent from my iPhone

Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/18/2017 12:45:16 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**CC:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** FW: 2017 09 18 Oakland Draft General Resolution Framework .docx  
**Attachments:** 2017 09 18 Oakland Draft General Resolution Framework .docx

**Importance:** High

Lucky you! We have something for you to review ASAP. Welcome back.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ ~ *Martin Luther King, Jr. , 18th April, 1959*

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**From:** Temple, Kurt  
**Sent:** Friday, September 15, 2017 4:34 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** 2017 09 18 Oakland Draft General Resolution Framework .docx  
**Importance:** High

Debra: Here is the draft of the Agreement. Please take a look on Monday morning. Thanks, Kurt

Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/13/2017 3:41:31 PM  
**To:** O'Lone, Mary [olone.mary@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Katsumi Keeler [Keeler.Katsumi@epa.gov] [Keeler.Katsumi@epa.gov]  
**Subject:** FW: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.  
**Attachments:** Oakland Draft General Resolution Framework 9.13.17 RNF DJ MARAD comments.docx

Saved to the Shared Working File on the I drive.

Uploaded to deliberative section of official case file and logged in.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." ~ Martin Luther King, Jr. , 18th April, 1959**

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**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Wednesday, September 13, 2017 11:04 AM  
**To:** Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Huezo, Hector (OST) <hector.o.huezo@dot.gov>; Cockfield, Erva (OST) <erva.cockfield@dot.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

For discussion, I've attached DOT's comments on the EPA framework. Thanks again for taking the initiative on developing this.

Ryan

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

-----Original Appointment-----

**From:** Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]  
**Sent:** Tuesday, September 12, 2017 2:29 PM  
**To:** Dorka, Lilian; Temple, Kurt; McGhee, Debra; Rhines, Dale; Keeler, Katsumi; Johnson, Johahna; O'Lone, Mary; Grow, Richard; Garnett, Desean; Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Jang, Deeana (OST)  
**Subject:** As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

004616 2020-10-29

**When:** Thursday, September 14, 2017 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** Conference Call 1-866-299-3188 Code: 202-564-8151#

Call #

**Conference Line/Code / Ex. 6**

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/14/2017 3:31:27 PM  
**To:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

Thanks!

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** -- *Martin Luther King, Jr. , 18th April, 1959*

---

**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Thursday, September 14, 2017 10:58 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

We don't utilize standard language. But I can share with you our latest agreement, sure.

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, September 14, 2017 10:32 AM  
**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

Ryan – do you have an agreement that your agency has entered into recently that reflects your current standard language? I would love to look it over before the meeting. Thanks.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** -- *Martin Luther King, Jr. , 18th April, 1959*

---

**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Thursday, September 14, 2017 9:33 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>; Grow, Richard <Grow.Richard@epa.gov>; Dorka, Lilian

004618 2020-10-29

<Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Huezo, Hector (OST) <hector.o.huezo@dot.gov>; Cockfield, Erva (OST) <erva.cockfield@dot.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>; grow.r@att.net  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

Good stuff Richard, we should definitely discuss these points today

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

---

**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, September 14, 2017 9:32 AM  
**To:** Grow, Richard <Grow.Richard@epa.gov>; Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Huezo, Hector (OST) <hector.o.huezo@dot.gov>; Cockfield, Erva (OST) <erva.cockfield@dot.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>; grow.r@att.net  
**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

Thank you Richard. Good thoughts. We will keep your observations in mind during discussions today even if you are unable to join.

*Debra E. McGhee*  
Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** -- Martin Luther King, Jr. , 18th April, 1959

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**From:** Grow, Richard  
**Sent:** Wednesday, September 13, 2017 10:37 PM  
**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>; Dorka, Lilian <Dorka.Lilian@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>; Rhines, Dale <rhines.dale@epa.gov>; Keeler, Katsumi <Keeler.Katsumi@epa.gov>; Johnson, Johahna <Johnson.Johahna@epa.gov>; O'Lone, Mary <OLone.Mary@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Rivera, Yvette (OST) <yvette.rivera@dot.gov>; Jang, Deeana (OST) <deeana.jang@dot.gov>; Caro-Lopez, Howard (OST) <howard.caro-lopez@dot.gov>; Huezo, Hector (OST) <hector.o.huezo@dot.gov>; Cockfield, Erva (OST) <erva.cockfield@dot.gov>; Hart, Daryl (MARAD) <daryl.hart@dot.gov>; Kizito-Ramos, Rachel (MARAD) <Rachel.Kizito-Ramos@dot.gov>; grow.r@att.net  
**Subject:** Re: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

# Deliberative Process / Ex. 5

Richard

Conference Line/Code / Ex. 6

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**From:** Fitzpatrick, Ryan (OST) <[ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov)>

**Sent:** Wednesday, September 13, 2017 8:04 AM

**To:** Dorka, Lilian; Temple, Kurt; McGhee, Debra; Rhines, Dale; Keeler, Katsumi; Johnson, Johanna; O'Lone, Mary; Grow, Richard; Garnett, Desean; Rivera, Yvette (OST); Jang, Deeana (OST); Caro-Lopez, Howard (OST); Huezo, Hector (OST); Cockfield, Erva (OST); Hart, Daryl (MARAD); Kizito-Ramos, Rachel (MARAD)

**Subject:** RE: As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

For discussion, I've attached DOT's comments on the EPA framework. Thanks again for taking the initiative on developing this.

Ryan

**Ryan N. Fitzpatrick, Esq.**

Lead Civil Rights Analyst

Departmental Office of Civil Rights

Office of the Secretary

U.S. Department of Transportation

W78-312

(202) 366-1979

-----Original Appointment-----

**From:** Dorka, Lilian [mailto:Dorka.Lilian@epa.gov]

**Sent:** Tuesday, September 12, 2017 2:29 PM

**To:** Dorka, Lilian; Temple, Kurt; McGhee, Debra; Rhines, Dale; Keeler, Katsumi; Johnson, Johahna; O'Lone, Mary; Grow, Richard; Garnett, Desean; Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Jang, Deeana (OST)

**Subject:** As Agreed -- Follow up on Last week's Convo to discuss Draft Framework/DOT Comments, etc.

**When:** Thursday, September 14, 2017 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** Conference Call **Conference Line/Code / Ex. 6**

Call #

**Conference Line/Code / Ex. 6**

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 8/18/2017 2:57:47 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]; O'Lone, Mary [olone.mary@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]  
**CC:** Johnson, Johanna [Johnson.Johanna@epa.gov]  
**Subject:** Oakland Production Log.xlsx  
**Attachments:** Oakland Production Log.xlsx

I'd like to suggest that we use this log, or one like it, throughout the City of Oakland case. This log is modeled on one that DOJ shared with us during the last training.

The idea here is that a reviewer or team member could go to ONE SHEET and scan it to figure out what documents we have on hand in a case, and where those documents are stored. It would be important for team members to be disciplined about saving documents to the Title VI Library and listing them on the spreadsheet, however, once that was done, we'd have a sort of table of contents for all the materials related to the case. (R

(Right now the Title VI library is stored on a drive that only ECRCO can access, but I hope we can change that one of these days.)

I have only entered one item related to this case so far because I wanted to share the template and find out if there are other columns that we should add. I'll add a date stamp or header to the Template marking it as "DELIBERATIVE." (Just thought of that).

Do you have any modifications or additions to suggest?

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 4/6/2017 3:43:28 PM  
**To:** Harrison, Brenda [Harrison.Brenda@epa.gov]  
**Subject:** FW: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d  
**Attachments:** 2017-04-04 WOEIP Title VI Complaint Final Format.pdf

This is correspondence from people who want to file a new complaint. Who assigns the number?

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr., 18th April, 1959

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**From:** Dorka, Lilian  
**Sent:** Wednesday, April 5, 2017 5:33 PM  
**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>  
**Cc:** yvette.rivera@dot.gov; Covington, Jeryl <Covington.Jeryl@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** FW: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Hi Ryan, hope you are well! Thanks for sending this to me as I don't think anyone here has received it. We will process accordingly and, as it's addressed to both agencies, we will coordinate on how to review and possibly accept, etc. Thanks! Lily

Lilian Sotolongo Dorka  
Director, External Civil Rights Compliance Office  
EPA, Office of General Counsel  
202-564-9649  
WJC-N Room 2450

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**From:** Fitzpatrick, Ryan (OST) [<mailto:ryan.fitzpatrick@dot.gov>]  
**Sent:** Wednesday, April 05, 2017 3:28 PM  
**To:** Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>  
**Cc:** Rivera, Yvette (OST) <[yvette.rivera@dot.gov](mailto:yvette.rivera@dot.gov)>; Jang, Deeana (OST) <[deeana.jang@dot.gov](mailto:deeana.jang@dot.gov)>  
**Subject:** FW: Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Hey Lilian:

I hope all is well. This complaint came in last night, but it was addressed to Velveta so I wanted to make sure that you saw it. The reference to “re-serving” has to do with an e-mail sent earlier yesterday, which they attempted to recall and replace with this one.

Thanks,

Ryan

**Ryan N. Fitzpatrick, Esq.**

004623 2020-10-29

Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

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**From:** Rikki Weber [<mailto:rweber@earthjustice.org>]  
**Sent:** Tuesday, April 04, 2017 9:11 PM  
**To:** [Daria.neal@usdoj.gov](mailto:Daria.neal@usdoj.gov); [Title VI Complaints@epa.gov](mailto:Title_VI_Complaints@epa.gov); Fitzpatrick, Ryan (OST)  
**Cc:** Yana Garcia; Paul Cort; Adenike Adeyeye; Rikki Weber  
**Subject:** Re-Serving WOEIP Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

Counsel,

Please refer to this re-formatted copy of the previously served complaint.

Rikki Weber  
Litigation Assistant  
50 California Street, Suite 500  
San Francisco, CA 94111  
T: 415.217.2000  
F: 415.217.2040

[www.earthjustice.org](http://www.earthjustice.org)

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ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES  
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

*By electronic and certified U.S. mail*

April 4, 2017

Attn: Ryan Fitzpatrick  
Lead Civil Rights Analyst, Department of Transportation  
Departmental Office of Civil Rights  
1200 New Jersey Ave., S.E.  
Washington, D.C. 20590  
ryan.fitzpatrick@dot.gov

Attn: Velveta Golightly-Howell  
Director, Office of Civil Rights  
United States Environmental Protection Agency  
U.S. EPA Office of Civil Rights (Mail Code 1201A)  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460  
Title\_VI\_Complaints@epa.gov

Attn: Daria Neil  
Deputy Chief, Federal Coordination and Compliance Section  
Civil Rights Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Daria.neal@usdoj.gov

Re: **Complaint Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d**

On behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP or “Complainant”) submits this Complaint regarding the City of Oakland’s (“City”) pattern of neglect and systemic disregard for the health and wellbeing of West Oakland’s residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base (“OAB”) while failing to ensure adequate health and safety protections for the surrounding community. Complainant also files this complaint against the Port and the Board of Port Commissioners (collectively referred to as “Port”), for continuously expanding the Port’s maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation.

The City and Port have engaged in the activities described in this Complaint to manipulate decision making and push through harmful expansions of freight activities for decades. Both parties have refused to engage in a meaningful analysis or process by which to address the negative health and environmental implications of their actions. Time and time

again, both the City and Port have dismissed the consistent input and opposition to their actions from directly impacted West Oakland residents, nearly 80% of whom are people of color, as well as from other agencies concerned about the problems such activities are creating.

The most recent example of the actions that are the subject of this Complaint is the City's approval of the first of a series of development-specific air quality management plans authorizing the construction of a new large-scale global trade and logistics development project located on OAB property. On October 4, 2016, the City Administrator approved a construction management plan for the Northeast Gateway development project site of the OAB, allowing developers, Prologis and the California Capital and Investment Group ("CCIG") to break ground on November 1, 2016, and begin construction for an expansive new warehouse and logistics development project – the "Oakland Global Logistics Center" – the full effects of which neither the City nor the Port have fully analyzed or addressed. This approval, and the City's continued authorization of new development and expanded activities at the Port and OAB create an unjustified disproportionate adverse impact on the basis of race, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and the implementing regulations of the United States Department of Transportation ("DOT"), 49 C.F.R. Part 21, and the United States Environmental Protection Agency ("EPA"), 40 C.F.R. Part 7.

Title VI prohibits entities receiving federal financial assistance from engaging in activities that subject individuals to discrimination on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Both the City and Port receive federal financial assistance from DOT, EPA and other federal agencies.<sup>1</sup> They are, therefore, subject to Title VI's prohibition against discrimination. The City and Port violate that prohibition by forcing through freight expansion projects that disproportionately subject the communities of color that surround both the Port and OAB properties to air pollution and other serious health threats on the basis of their race.

As an initial step in addressing the violations set forth in this complaint, Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this Complaint, and investigate whether the City and Port have indeed violated, and/or continue to violate Title VI of the Civil Rights Act and its implementing regulations in issuing their approvals to expand freight-related activities at the Port and OAB.<sup>2</sup> For reasons of economy, Complainant further requests that these investigations be consolidated and that EPA and DOT collaborate and coordinate the development and implementation of remedial approaches designed to address the City's and Port's violations. Because both the City and Port are most consistently funded by DOT in matters pertaining to the approvals and the activities at issue here, DOT is well poised to take the lead role at the federal level. Complainant also includes the Civil Rights Division of the Department of Justice in this Complaint, in anticipation

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<sup>1</sup> While not the subject of this complaint, the Port, which operates as a fully independent department of the City, receives substantial federal assistance in the form of monetary grants and gifts consisting of real property from the Department of Defense, the United States Army, and the United States Department of Homeland Security.

<sup>2</sup> Complainant also specifically requests that if either DOT or EPA rejects this complaint, the other agency conduct an investigation alone or jointly with other federal agencies, as appropriate, in accordance with federal regulations. See 28 C.F.R. § 42.408(b) ("Where a federal agency lacks jurisdiction over a complaint, the agency shall, wherever possible, refer the complaint to another federal agency . . .").

that they too would play an active role in coordinating these federal investigative and enforcement actions, consistent with the mission of the Federal Coordination & Compliance Section.

In order to remedy the violations set forth in detail below, Complainant requests that DOT and EPA condition all future grants and awards of federal funds to the City and Port on both entities furnishing adequate assurances that their actions with respect to the activities taking place at the Port and OAB properties will address disproportionate impacts on the surrounding community. Specifically, WOEIP requests that the City and Port implement and adhere to appropriately tailored, updated mitigation measures that will address the harmful externalities of the Port's industrial and freight activities – including any and all new and expanded activities occurring at the OAB – and that both the City and Port commit to a meaningful, continuous process for receiving and incorporating input from the West Oakland community.

## **I. PARTIES**

### **A. Complainant**

WOEIP is a neighborhood resident-led, community-based environmental justice organization located in West Oakland, California. The organization is dedicated to achieving healthy homes, healthy jobs, and healthy neighborhoods for all who live, work, learn and play in their community. Through engaging in research projects and participating in agency advisory committees as well as stakeholder groups, WOEIP focuses on leveraging community power to support residents in developing and achieving their own vision for healthy neighborhoods, which includes, among other things, clean soil and vibrant surroundings, clean air and clean water, and a resident-led comprehensive vision for redevelopment and economic revitalization in and around West Oakland.<sup>3</sup>

### **B. Recipients**

The City is a municipal corporation, ordained and established under the California Constitution. *See* Charter of the City of Oakland art. I. § 100<sup>4</sup>; *see, also*, Cal. Const. art. XI, § 5. As such, the City has the right and the power to make and enforce all laws and regulations relating to its municipal affairs. Charter of the City of Oakland art I. § 106. The City is a recipient of federal funds, as detailed below.

The Port was established in 1927. It operates as a fully independent City department, created by the City pursuant to the City's governing charter. Charter of the City of Oakland art. VII, §700. In creating the Port Department, the City vested “exclusive control and management” of the Port in the Board of Port Commissioners, which is comprised of members nominated by

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<sup>3</sup> *See* West Oakland Environmental Indicators Project website, *available at* <https://www.woeip.org> (last accessed, March 28, 2017).

<sup>4</sup> *Available at*: [https://www.municode.com/library/ca/oakland/codes/code\\_of\\_ordinances?nodeId=THCHOA\\_ARTVIIPOOA](https://www.municode.com/library/ca/oakland/codes/code_of_ordinances?nodeId=THCHOA_ARTVIIPOOA) (last accessed on March 28, 2017).

the City's Mayor and appointed by the City Council. *Id.* §701. The Board of Port Commissioners has "complete and exclusive power" over the "Port Area." *Id.* All moneys appropriated by the Board and all revenue from the operation of the Port are under the exclusive control of the Board and are deposited in a special "Port Revenue Fund" in the City's treasury. *Id.* §§ 717(2), (3). Like the City, the Port is a recipient of federal funds, as detailed below.

## **II. JURISDICTION**

The prohibition against racial discrimination set forth in Title VI applies to all recipients of federal funds: "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d. The acceptance of federal funds in itself creates an obligation on the part of the recipient to comply with Title VI and the federal agencies' implementing regulations.

As explained below, the City and Port are recipients of federal funds and implement programs or activities receiving continuous federal financial assistance. They are, therefore, subject to the requirements of Title VI and its applicable implementing regulations.

### **A. Program or Activity**

Title VI defines a program or activity as "all of the operations of . . . a department, agency, special purpose district, or other instrumentality of a State or of a local government . . . any part of which is extended Federal financial assistance." 42 U.S.C. § 2000d-4a. Accordingly, if any part of a listed entity receives federal funds, the whole entity is covered by Title VI. *Ass'n. of Mex.-Am. Educ. v. California*, 195 F.3d 465, 474-5 (9th Cir. 1999), rev'd in part on other grounds, 231 F.3d 572 (9th Cir. 2000) (en banc).

The actions undertaken by the City and Port are taken as part of a program or activity because the City is its own municipal government entity, and the Port is a department of the City as set forth in the City's charter. Charter of the City of Oakland art. VII, §§ 700, 701. Indeed, the City created the Port's Board of Commissioners specifically to act for and on behalf of the City in any matter within the jurisdiction of the Board, which includes all areas that are part of the Port's operations. Charter of the City of Oakland art. VII, §701. Both the City and Port, including the Board of Port Commissioners, receive federal funds, as explained below.

The City Administrator is also appointed by the City's Mayor, subject to confirmation by the City Council, and is directly accountable to the Mayor's office. *See*, City of Oakland Municipal Code, Title 2, Ch. 2.29, sec. 170 (establishing the Office of the City Administrator). The Administrator is responsible for the day-to-day administrative and fiscal operations of the City, and directs City agencies and departments to ensure the goals and policy directives of the Mayor and City Council are implemented. *See, id.* The responsibilities of the Administrator's Office include: enforcing all laws, ordinances, and policies of the Council; attending all meetings of the Council, Council Committees, boards, and commissions; making recommendations to the Council concerning City affairs; controlling and administering the financial affairs of the City and keeping the Council apprised of these affairs; preparing or directing preparation of the plans,

specifications, and contracts for work the Mayor or Council may order; and coordinating all projects, policies, and directives assigned to the Administrator by the Council or by the Mayor.<sup>5</sup> Accordingly, the specific actions and approvals undertaken by the City Administrator are also part of a program or activity, as they are taken with the full authority of the City. As outlined below, the infrastructure, shipping, transport, and logistics programs and activities approved by the City, Port, and the City Administrator that are the basis for this Complaint receive federal financial assistance.

## **B. Federal Financing/Federal Financial Assistance**

The City and Port receive federal financial assistance as defined in DOT's and EPA's Title VI implementing regulations.

### **1. DOT Funds Received by the City and Port**

DOT regulations define "[r]ecipient" as "any State . . . or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State . . . to whom Federal financial assistance is extended, directly or through another recipient. . . ." 49 C.F.R. § 21.23.

In Fiscal Year (FY) 2010, the City of Oakland received a considerable Transportation Investment Generating Economic Recovery (TIGER) planning grant in the amount of \$2 million to support the City's estimated \$9,220,000 planning efforts for "sustainable transit oriented planning" at the "[OAB] Redevelopment Area."<sup>6</sup> According to the grant description, DOT's grant of these funds was aimed at aiding the City's development of "an Infrastructure Master Plan", and associated environmental review, "to direct needed utilities and roadway improvements for the former [OAB]."<sup>7</sup> The project considered under the terms of this grant also involved a "Specific Plan" and associated environmental review "to guide future development in West Oakland" and to specifically develop a framework for addressing "undervalued and blighted land in the West Oakland community" where the per capita income was, in that year, less than fifty percent of the county average.<sup>8</sup>

DOT has also awarded substantial TIGER funds to the Port. For example, in FY 2012 DOT awarded the Port approximately \$15 million in TIGER grant funds to develop a new Port

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<sup>5</sup> City of Oakland, *City Administration: Welcome*, available at: <http://www2.oaklandnet.com/government/o/CityAdministration/index.htm> (last accessed March 30, 2017).

<sup>6</sup> See, United States Department of Transportation, *US DOT TIGER II Planning Grants*, available at: <https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%20%20Planning%20GRANTS%20Highlights.pdf> (last accessed March 30, 2017).

<sup>7</sup> See, United States Department of Transportation, *US DOT TIGER II Planning Grants*, available at: <https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%20%20Planning%20GRANTS%20Highlights.pdf> (last accessed March 30, 2017).

<sup>8</sup> See, United States Department of Transportation, *US DOT TIGER II Planning Grants*, available at: <https://www.transportation.gov/sites/dot.gov/files/docs/TIGER%20%20Planning%20GRANTS%20Highlights.pdf> (last accessed March 30, 2017).

Rail Terminal serving Port property.<sup>9</sup> Moreover, DOT consistently funds the Port with large grants specifically intended for airport improvements. While these funds do not directly benefit the OAB properties at issue here, the duration and scale of this funding is important to note. The following is a list of DOT's airport improvement program grants to the Port between FY 2008 and FY 2016:

FY 2008 - \$11,967,919  
FY 2009 - \$18,317,487  
FY 2010 - \$15,706,402  
FY 2011 - \$7,559,904  
FY 2012 - \$32,753,747  
FY 2013 - \$18,245,770  
FY 2014 - \$41,578,114  
FY 2015 - \$11,395,060  
FY 2016 - \$7,324,847

In FYs 2013 and 2014, the Port was also sub-granted \$983,928 and \$312,263, respectively, in funds originating from DOT, but awarded to the California Department of Transportation (Caltrans) to pay for ongoing operations at the Port.<sup>10</sup>

## **2. EPA Funds Received by the City and Port**

Similar to DOT's regulations, EPA's Title VI regulations define a "[r]ecipient" as "any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient . . . ." 40 C.F.R. § 7.25.

Between FY 2006 and FY 2010, the City received two consecutive two-year block grants totaling \$800,000 over the course of four years, from EPA, to ensure brownfield cleanup, including clean up in and around the community of West Oakland.<sup>11</sup>

Starting in 2013, EPA awarded the Port \$282,293 to reduce air pollution from the Port's gantry cranes, through EPA's National Clean Diesel Reduction Program.<sup>12</sup> In FY 2014 EPA also

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<sup>9</sup> See United States Department of Transportation, *TIGER 2012 Awards*, available at: [https://www.transportation.gov/sites/dot.gov/files/docs/fy2012tiger\\_0.pdf](https://www.transportation.gov/sites/dot.gov/files/docs/fy2012tiger_0.pdf) (last accessed March 30, 2017).

<sup>10</sup> USASpending.gov, *Recipient Profile: Port of Oakland*, available at: <https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2013> (last accessed March 30, 2017).

<sup>11</sup> See, USASpending.gov, *Recipient Profile: City of Oakland California*, available at: <https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=137137977&FiscalYear=2010> (last accessed, March 30, 2017), and see USASpending.gov, *Award Summary: City of Oakland*, available at: <https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=14192643> (last accessed, March 30, 2017).

<sup>12</sup> See, USASpending.gov, *Award Summary: Board of Port of Commissioners of the Port of [sic]*, available at: <https://www.usaspending.gov/transparency/Pages/AwardSummary.aspx?awardId=12519152> (last accessed, March 30, 2017).

awarded the Port and additional \$415,932 through the same program,<sup>13</sup> and in FY 2015, EPA granted another \$133,639 to the Port, to support the Port's continued efforts to reduce air pollution from port-related operations.<sup>14</sup>

### C. Timeliness

This complaint is timely because it is based on the City's and the City Administrator's continuous and ongoing approvals of a series of construction and operation management plans concerning the OAB "Gateway" Redevelopment Project, which is one part of a multi-stage large scale development project called the Oakland Global Logistics Center development, and is likewise part of the Port's continued expansion of its shipping, receiving, storage distribution and freight transport activities. Both DOT and EPA instruct Title VI complainants to file their complaints within 180 days of the alleged discriminatory act.<sup>15</sup> 49 C.F.R. § 21.11(b) (DOT Title VI regulations); 40 C.F.R. § 7.120(b) (EPA Title VI regulations).

On October 4, 2016, the City approved a construction management plan that allowed Prologis and CCIG to break ground on the Northeast Gateway OAB site on November 1, 2016.<sup>16</sup> The operation management plan for the Northeast Gateway project, and the construction and operation management plans for the remaining "Gateway" areas of the OAB remain subject to ongoing similar approvals from the City. The City's October 4, 2016 action is, therefore, one of many piecemealed development-related approvals that will continue to occur.

This complaint is timely because it is filed within 180 days of the City's October 4, 2017 approval and subsequent construction at the Northeast Gateway site. Moreover, because the actions alleged in this Complaint are part of a long history of discriminatory actions that are both ongoing, and slated to continue in subsequent approval processes, Complaint requests that DOT and EPA waive any potential objections related to the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

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<sup>13</sup> See, USASpending.gov, recipient profile for the "Port of Oakland" and "Board of Port Commissioners," FY 2014, DUNS no. 009235326, available at: <https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2014> (last accessed, March 30, 2017).

<sup>14</sup> USASpending.gov, *Recipient Profile: Board of Port Commissioners of the Port of Oa* [sic], available at: <https://www.usaspending.gov/transparency/Pages/RecipientProfile.aspx?DUNSNumber=009235326&FiscalYear=2015> (last accessed, March 30, 2017).

<sup>15</sup> DOT and EPA, moreover, have the authority and the discretion to waive or extend the 180-day deadline. 49 C.F.R. § 21.11(b); 40 C.F.R. § 7.120(b).

<sup>16</sup> See, Annie Sciacca, *Oakland Army Base redevelopment project breaks ground*, East Bay Times, (November 1, 2016), available at: <http://www.eastbaytimes.com/2016/11/01/oakland-army-base-redevelopment-project-breaks-ground/> (last accessed, March 30, 2017).

#### **D. Other Prudential Factors and/or Jurisdictional Considerations**

This Complaint satisfies all other jurisdictional and prudential considerations laid out in both DOT's and EPA's regulations implementing Title VI. The Complaint also meets EPA's guidance set forth in its Interim Case Resolution Manual.<sup>17</sup>

Specifically, this Complaint is submitted to both agencies in writing, by and on behalf of a Complainant group that is authorized to submit such a complaint to redress the adverse impacts this group experiences directly and which other, similarly situated residents also experience as a result of both the Port's and City's violations of Title VI.

DOT and EPA have subject matter jurisdiction over this Complaint because it alleges discrimination based on race in violation of Title VI of the Civil Rights Act of 1964. This Complaint also contains unique civil rights allegations that have not been alleged in any court or administrative proceeding, and which are specific to the City's and Port's systemic pattern of issuing project approvals and/or engaging in activity at and surrounding the Port and OAB properties in a manner that causes disproportionate effects to the surrounding residential community, on the basis of race.

Moreover, this Complaint seeks unique relief from DOT and EPA — compliance with Title VI. Complainant asks DOT and EPA to investigate this Complaint and take steps to remedy noncompliance with Title VI by the City and Port, including conditioning any and all future federal funding. This relief is not available through other means.

### **III. FACTUAL BACKGROUND**

#### **A. The Residents and Community of West Oakland**

##### **1. West Oakland's History and Demographics**

West Oakland is a diverse community with a rich history and a historically vibrant culture dating back to the late nineteenth century. In the 1800s and early 1900s, West Oakland was home to many European, Japanese, and Chinese immigrants, Mexicans, and a large number of African Americans who migrated from the South for jobs in the auto and rail industries. As military activities expanded at the OAB, and new job opportunities in the Port's shipyards increased, West Oakland experienced an even greater influx of mostly small-business growth,

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<sup>17</sup> See, e.g., United States Environmental Protection Agency, *Case Resolution Manual*, Chapter 2 (January 2017), available at [https://www.epa.gov/sites/production/files/2017-01/documents/final\\_epa\\_ogc\\_ecrco\\_crm\\_january\\_11\\_2017.pdf](https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf) (last accessed, March 30, 2017).

which, in addition to the OAB's activities included many local shops that were owned by, and served, West Oakland residents.<sup>18</sup>

In the late 1900's, however, West Oakland experienced a decline in its relative economic vitality.<sup>19</sup> While it remains a mostly working-class community, the median household income in zip code 94607, which encompasses most of West Oakland today, is \$35,837.<sup>20</sup> For comparison, the median income of Alameda County is \$67,169.<sup>21</sup> Over 30% of individuals living in zip code 94607 live below the poverty level.<sup>22</sup> In Alameda County as a whole, only 13.5% of individuals live below the poverty level.<sup>23</sup> As *Figure 1* indicates, poverty has been a long term issue in West Oakland, with the entire community experiencing either persistent (five decades long), or frequent (three to four decades long), high poverty rates.

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<sup>18</sup> See, e.g., Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Ch. 1.1 "[OAB] Location, History and Setting", p. 13 (July 31, 2012) (describing some of the historical background of the region, and in particular of the OAB, and its surroundings), available at <http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829> (last accessed April 3, 2017).

<sup>19</sup> County of Alameda, CA, *Demographics*, available at <https://www.acgov.org/about/demographics.htm> (last accessed March 30, 2017); United States Census Bureau, *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, available at <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last accessed March 30, 2017).

<sup>20</sup> United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, available at <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last accessed March 30, 2017).

<sup>21</sup> County of Alameda, CA, *Demographics*, available at <https://www.acgov.org/about/demographics.htm> (last accessed March 30, 2017).

<sup>22</sup> United States Census Bureau. *American FactFinder*, citing 2011-2015 American Community Survey 5-Year Estimates, available at <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml> (last accessed March 30, 2017).

<sup>23</sup> County of Alameda, CA, *Demographics*, available at <https://www.acgov.org/about/demographics.htm> (last accessed March 30, 2017).

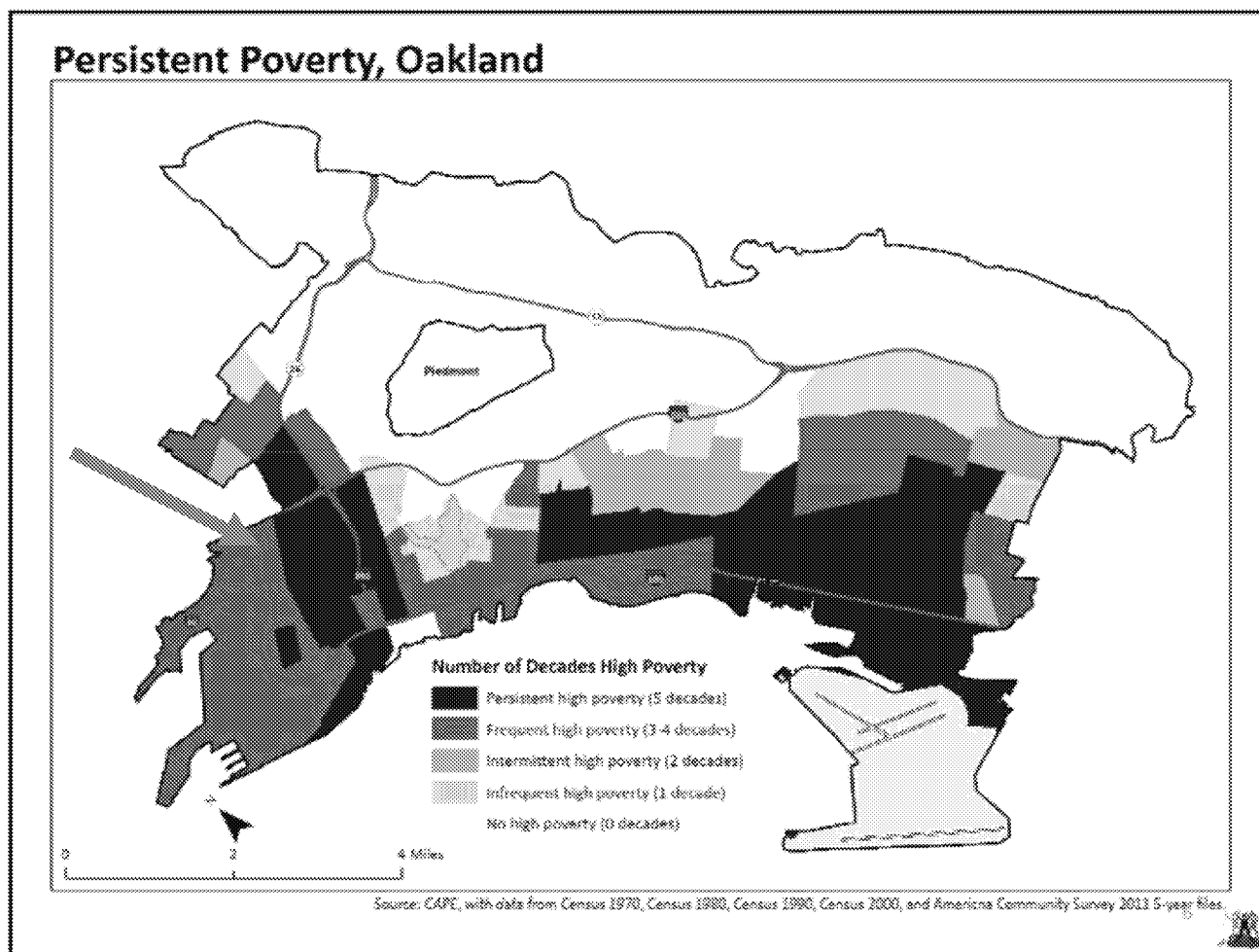


Figure 1 Map of areas of persistent poverty in Oakland (with arrow pointing to West Oakland).<sup>24</sup>

Most importantly for the purpose of this Complaint, and the allegations set forth herein, West Oakland remains primarily a community of color. Approximately 49 percent of West Oakland residents today are Black, 17 percent identify as Latino, 15 percent identify as White, and nearly 13 percent identify as Asian.<sup>25</sup> In Alameda County overall, 51 percent of Alameda County residents are White, only 12 percent are Black, 30 percent are Asian, and 23 percent are Latino.<sup>26</sup>

<sup>24</sup> Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 6.

<sup>25</sup> Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015), p. 3.

<sup>26</sup> United States Census Bureau, *Quick Facts: Alameda County, California* (2015), available at <https://www.census.gov/quickfacts/table/PST045216/06001> (last accessed March 30, 2017).

## 2. Health and Pollution Burdens Affecting West Oakland

The largely residential community of West Oakland is surrounded by the Port and OAB, and by freeways. Specifically, as shown in *Figure 2*, three interstate freeways, the I-580, I-880 and I-980 freeways, surround West Oakland with the Port and OAB surrounding the community to the West and South.

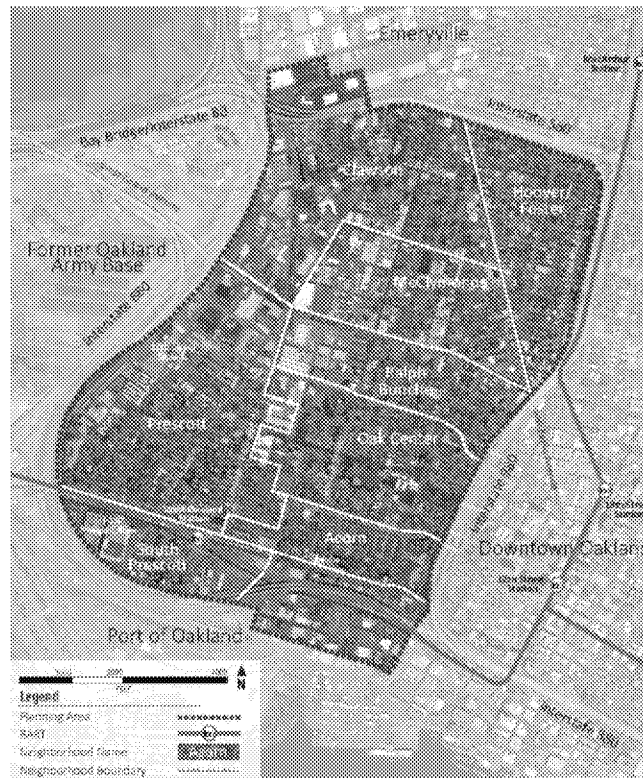


Figure 2 Map of the community of West Oakland.<sup>27</sup>

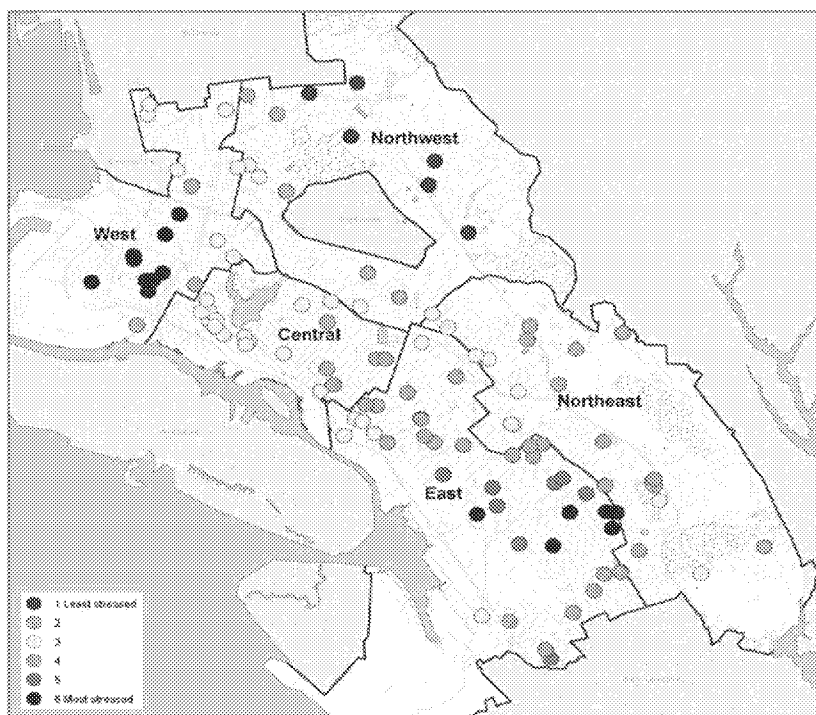
In addition to housing the Port, which is the fifth busiest container port in the United States, West Oakland is also home to two rail yards, with expansive and growing rail road tracks that are owned and operated by Union Pacific (“UP”), and the Burlington Northern and Santa Fe Railroad Company (“BNSF”). While not pictured above, West Oakland also has numerous trucking-based distribution centers and a host of related businesses including mechanical and body repair shops as well as large diesel gas stations that serve various activities taking place at the Port and OAB.

Thus, while this community has many aspects of unique physical beauty, including many nineteenth century Victorian-era historical buildings, an important and meaningful history, as

<sup>27</sup> City of Oakland, *West Oakland Specific Plan* (area map), available at <http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/OAK028334> (last accessed, April 3, 2017).

well as vibrant cultural traditions, today, its residents experience an overwhelming and disproportionate burden of health and environmental risks caused by the activities surrounding their homes and schools. For example, the Oakland Unified School District (OUSD) has identified the three elementary schools, two middle schools, and three high schools located in West Oakland and serving the West Oakland community as showing the highest “environmental stress indicators” based on students’ exposure to poor air quality and inadequate access to healthy foods, among other environmental risks.

## Environmental Stress Factors



OUSD SRA 2015-16

REGION	# Schools	Average Index*1
Central	18	3.21
East	55	4.32
Northeast	22	2.90
Northwest	16	1.73
West	19	4.47

\* index scale 1-6, 6 being the highest concentration of environmental stress factors

Environmental stress factors tend to be interrelated and concentrated in certain geographic areas of Oakland where:

- violent crime, unemployment, residential vacancy, and poverty rates are high;
- air quality is poor;
- access to fresh food is limited;
- liquor stores may outnumber grocery stores.

These environmental factors have a compounding effect on schools located in the most disinvested parts of the city, largely serving students who come from the surrounding communities.

*\*No new environmental stress data was processed for SRA2015-16. Update includes six new charter schools opened in 2013-16.*

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Figure 3 Environmental stress factors by school.

In addition, there are two preschools and at least one formal, reported day-care center, which, while not included in the OUSD map above, are located in close proximity to the Port and the

freeways surrounding West Oakland.<sup>28</sup> These childcare facilities are exposed to the same stress indicators, including poor air quality, as the OUSD-reported schools shown in *Figure 3*, yet with potentially even more devastating impacts, considering the age and size of the children attending these care facilities.

Notably, most of the pollution burden West Oakland residents shoulder directly results from the activities taking place at and around the Port and OAB. Trucks serving the Port bring heavy air pollutant emissions, including emissions of diesel particulate matter; the traffic they cause disrupts neighborhoods, and damages local streets that were not intended for heavy trucks.

Air pollution has been proven to cause and/or exacerbate respiratory and cardiovascular illness, and can trigger asthma attacks.<sup>29</sup> Diesel particulate matter emitted by heavy duty trucks and other freight vehicles and equipment like ships and trains, is a known carcinogen. The California Air Resources Board (“ARB”) has found that West Oakland residents are “exposed to diesel particulate matter ambient concentrations that are almost three times the average background diesel particulate matter ambient concentrations in the [Bay Area Air Quality Management District].”<sup>30</sup> Indeed, West Oakland residents experience a lifetime potential cancer risk of 1,200 excess cancers per million due to diesel particulate matter emissions. In comparison, the ARB found an excess cancer risk due to diesel particulate matter of 480 excess cancers per million across the entire San Francisco Bay Area.<sup>31</sup> The risk that West Oakland residents face is nearly three times the risk that Bay Area residents generally face. Diesel particulate matter emissions from the Port alone are responsible for a risk of approximately 200 excess cancers per million.<sup>32</sup>

In 2008, the ARB conducted a diesel particulate matter Health Risk Assessment in West Oakland. The 2005 baseline emission inventory used in the assessment showed that heavy duty trucks accounted for 112 tons per year of diesel particulate matter emissions, or 13% of the total

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<sup>28</sup> Harriett Tubman Preschool is located on 3<sup>rd</sup> street, in the Hoover/Foster neighborhood of West Oakland, adjacent to the I-580 and I-980 intersections, which experience heavy traffic to reach the Port and Port facilities. See, map location, available at: <https://www.google.com/maps/place/Harriet+R+Tubman+CDC/@37.8236086,-122.2731381,15z/data=!4m5!3m4!1s0x0:0x1b8f115e05028cb2!8m2!3d37.8236086!4d-122.2731381> (last accessed, March 30, 2017). The Baby Academy and Infant Day Care Center is also located in West Oakland’s Prescott neighborhood, which is adjacent to the I-880 or “Nimitz Freeway” that feeds directly onto frontage roads serving the Port. See, map location, available at: <https://www.google.com/maps/place/The+Baby+Academy+Infant+Care+%26+Preschool/@37.8094548,-122.2975516,15z/data=!4m5!3m4!1s0x0:0x891cc2ecd329e327!8m2!3d37.8094548!4d-122.2975516> (last accessed, March 30, 2017).

<sup>29</sup> Saffet Tanrikulu, Cuong Tran, and Scott Beaver, Bay Area Air Quality Management District, *Health Impact Analysis of Fine Particulate Matter in the San Francisco Bay Area* (September 2011), available at <http://www.baaqmd.gov/~media/files/planning-and-research/research-and-modeling/cost-analysis-of-fine-particulate-matter-in-the-bay-area.pdf> (last accessed March 30, 2017).

<sup>30</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

<sup>31</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 22, (December 2008).

<sup>32</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

diesel particulate matter emissions inventory for the West Oakland area, with the remaining diesel particulate matter emissions coming from trains and ships serving the Port area.<sup>33</sup> An estimated 2,800 medium sized, short distance trucks, also known as drayage trucks, serve the Port of Oakland multiple times per week, and there are approximately 10,000 truck trips to and from the Port, with an additional 1,400 truck trips daily between the Port and distribution centers in West Oakland.<sup>34</sup> These figures are expected to grow as the Port expands, which will result in additional truck traffic through the West Oakland community. Further expansions of the Port's activities will bring more ships and more trains to the area, further elevating the amount of diesel particulate matter in the air throughout West Oakland, and increasing the resulting adverse health impacts affecting West Oakland residents.

As demonstrated through ARB's 2008 Health Risk Assessment, truck traffic hurts communities and makes it more difficult to build thriving, resilient neighborhoods. People living on busy streets, with trucks rumbling by frequently, are more reluctant to go outside to exercise; residents have fewer opportunities to meet their neighbors and to build a close-knit community within their neighborhood.<sup>35</sup> If they are parents they are also more reluctant to let their children play outside. Closely connected communities can provide important physical and mental health benefits;<sup>36</sup> truck traffic impedes these benefits for residents of West Oakland.

Moreover, while diesel particulate matter emissions from the Port alone are responsible for approximately 200 excess cancers per million,<sup>37</sup> West Oakland residents are consistently exposed to a variety of other, cumulative impacts that result in poor health outcomes in the community. All-cause death rates in West Oakland are higher than all-cause death rates in the city of Oakland overall.<sup>38</sup> As a result, West Oakland has one of the lowest life expectancies of all communities in Oakland (see *Figure 4*).

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<sup>33</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 15, Table 3 (December 2008).

<sup>34</sup> UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Air-6 (March 2010).

<sup>35</sup> UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-9 (March 2010) (showing that communities with higher traffic volumes are not as close-knit as communities with lower traffic volumes).

<sup>36</sup> UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, University of California, Berkeley, CA, p. Transportation-10 – Transportation-11 (March 2010).

<sup>37</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2, (December 2008).

<sup>38</sup> Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 13, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

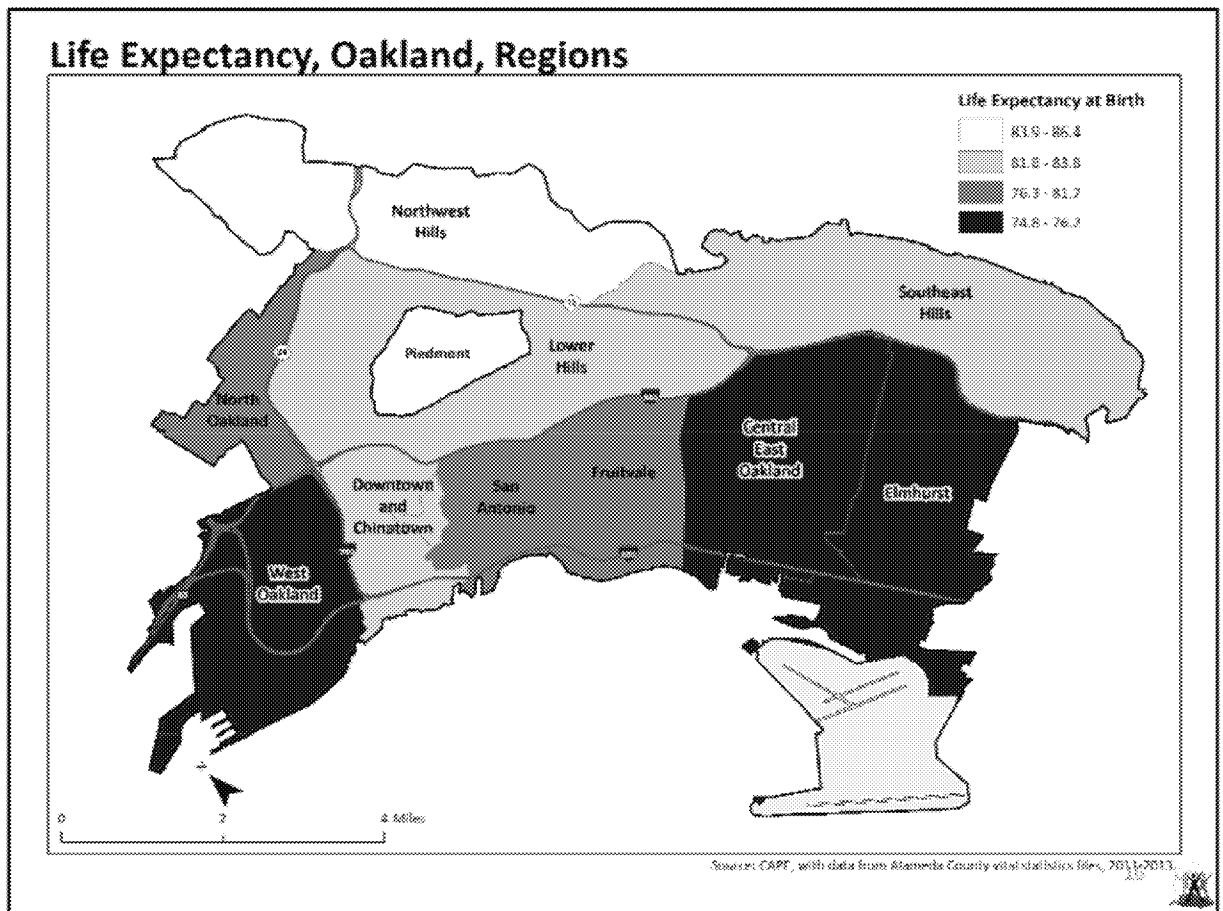


Figure 4 Life expectancies in Oakland's communities.<sup>39</sup>

When compared to other areas of Alameda County, West Oakland also has elevated rates of emergency room visits due to stroke-related and congestive heart failure hospitalizations, and asthma hospitalizations in children older than 5.<sup>40</sup>

## B. History of the Port and Army Base

The Port is the fifth largest container port in the United States and the second largest in the State of California, behind the combined ports of Los Angeles and Long Beach. Established in 1927, the Port is home to 18 ship berths, 236 container cranes, two rail yards and approximately 500 pieces of cargo handling equipment, as well as 2,500 trucks. In 2016, the Port moved over 2 million 20-foot equivalent units of containers in and out of the Bay area.

<sup>39</sup> Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, p. 16, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

<sup>40</sup> Alameda County Public Health Department, *East and West Oakland Health Data Existing Cumulative Health Impacts*, pp. 9-12, West Oakland Resident Action Council (RAC) Meeting (September 5, 2015).

OAB is a 425-acre facility located along the Oakland waterfront, just north of the Port and south of the eastern portion of the San Francisco Bay Bridge.<sup>41</sup> It was originally commissioned to serve as a United States Army base in 1941, and during World War II it developed to serve as a major cargo port.<sup>42</sup> Following the end of the war, OAB continued to serve as a shipping and rail terminal, providing logistical support for the subsequent Korean, Vietnam and Persian Gulf wars.<sup>43</sup> In 1995 the United States Defense Base Closure and Realignment Commission recommended closure of OAB, and it officially closed OAB's operations as an army base in 1999.<sup>44</sup>

Following its decision to close the base, the United States Department of Defense designated a local reuse authority – the Oakland Army Base Reuse Authority – as the entity charged with the oversight of all post-closure redevelopment at OAB.<sup>45</sup> In order to assist in informing and influencing the ongoing land use changes at OAB, prior to the completion of OAB's closure, the Reuse Authority established the West Oakland Community Advisory Group (WOCAG).<sup>46</sup> In line with its purpose, the WOCAG met for over ten years to discuss and present community recommendations relating to the new uses and businesses that would benefit West Oakland residents. These recommendations were collected, reviewed and compiled by the Redevelopment Agency until its dissolution, and they were, to an extent, incorporated into the early planning stages for the OAB closure.

In 2000, the Oakland City Council designated OAB and its surrounding properties as a "Redevelopment Area," then under the jurisdiction of the City's Redevelopment Agency, the Port and the County of Alameda, pursuant to a Joint Powers Agreement. The closure process was guided by a "Preliminary Redevelopment Plan" that was formulated with some early input from the WOCAG.<sup>47</sup> Pursuant to this "Preliminary Redevelopment Plan", the City broadly committed to the "redevelopment, rehabilitation, and revitalization of the area within the boundaries of the [OAB]" and its surroundings.<sup>48</sup> The City also sub-divided OAB into two general development areas, shown in *Figure 5*, below. The first was a 140-acre "Gateway Development Area," situated in the north and northwest portion of the sub-district, owned by the City and the OAB Redevelopment Agency.<sup>49</sup> The second was a 170-acre "Port Development

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<sup>41</sup> Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Executive Summary, p. 1 (July 2012), available at: <http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829> (last accessed April 3, 2017).

<sup>42</sup> *Id.*, p. 14.

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Id.*, p. 15.

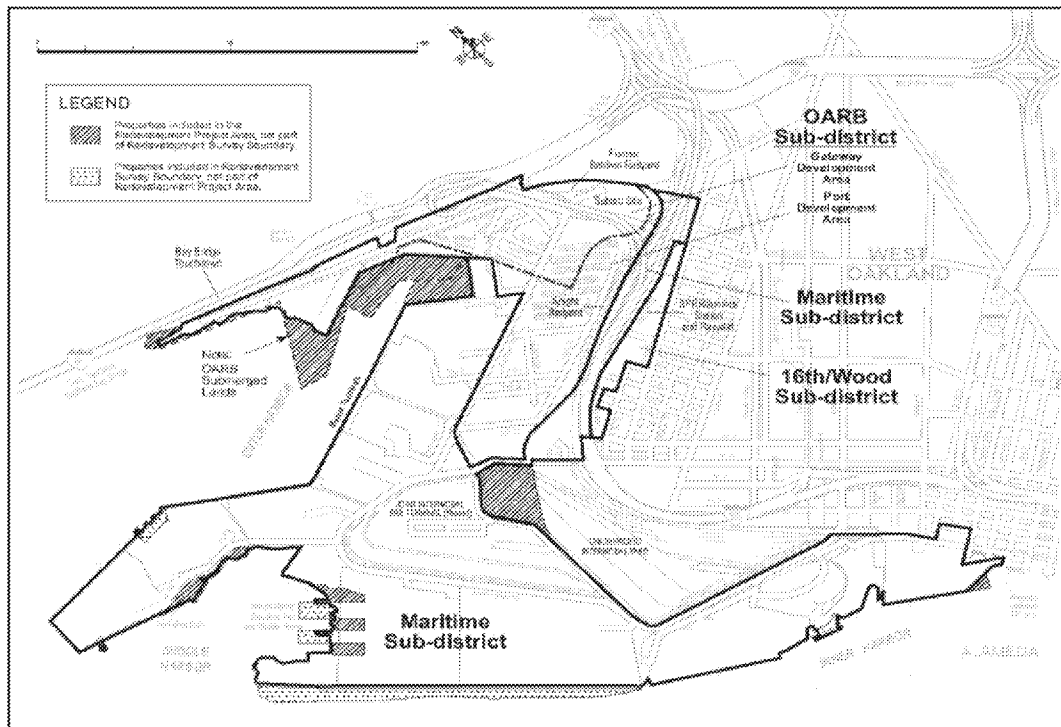
<sup>46</sup> *Id.*, p. 16.

<sup>47</sup> See Redevelopment Plan for the Oakland Army Base Redevelopment Project, Adopted June 11, 2000, Amended and Restated on December 21, 2004 (Ordinance No. 12644 C.M.S.), and on June 7, 2005 (Ordinance No. 12672 C.M.S.), p. 2.

<sup>48</sup> City of Oakland, *Redevelopment Plan for the Oakland Army Base Redevelopment Project* (June 11, 2000)(Amended and restated December 21, 2004 and June 7, 2005), available at <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak030544.pdf>.

<sup>49</sup> See LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), available at <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf>.

Area” located in the west and southeast portions of the OAB, owned and operated by the Port.<sup>50</sup> In addition to these two main sub-areas, the City also designated two additional sub-districts – the “Maritime” sub-district, which is comprised of 1,290 acres owned and operated by the Port; and the “16th and Wood” sub-district – an additional 41 acres owned by various private entities.<sup>51</sup>



OAB Area Redevelopment EIR  
Figure 3-2 OAB Redevelopment Project Area  
April 2002

g. borchard & associates

Figure 5 Oakland Army Base Redevelopment Area Sub-Districts, April 2002<sup>52</sup>

In 2002, the City approved a new and more detailed “Oakland Army Base Redevelopment Area Plan” and a supporting Environmental Impact Report (EIR) analyzing the effects of the OAB closure and the City’s updated planning proposals for redevelopment on OAB property under the California Environmental Quality Act.<sup>53</sup> According to the City’s 2002 approval, the Gateway Development Area would be redeveloped pursuant to a “flexible” alternative land use plan, which specifically contemplated the construction and operation of

<sup>50</sup> See LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, pp. 19-20 (May 2012), available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak035061.pdf>.

<sup>51</sup> *Id.*

<sup>52</sup> City of Oakland, *Oakland Army Base Project: Maps*, available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/image/dowd007621.jpg> (last accessed April 4, 2017).

<sup>53</sup> See Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, p. 1 (July 31, 2002), available at <http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829> (last accessed April 3, 2017).

waterfront light-industrial and flexible office space including research and development (“R&D”) offices, as well as other “business-serving retail” and “high-end commercial development” spaces like a “Four Star Hotel.”<sup>54</sup> While the 2002 plan also included some warehousing and distribution, as well as ancillary maritime support facilities, the majority of land uses specified in the plan consisted of light industrial development, so as to attract businesses focused on industries other than heavy freight industrial activities.<sup>55</sup>

Despite the generally beneficial land-uses considered and approved in the City’s 2002 Redevelopment Plan approval, the community was concerned, at the time, that the Plan did not demonstrate an honest commitment by the City to redevelop the OAB in a way that would genuinely benefit surrounding residents in West Oakland. In 2002, the WOCAG issued recommendations in response to the City’s EIR and proposed Redevelopment Plan, which expressed the community’s concerns with the direction of the City’s land use and planning decisions, and its displeasure with the way their recommendations had been treated up to that point.<sup>56</sup> Specifically, the WOCAG explained that the 2002 plan approval and related EIR did not provide enough detail regarding the City’s proposed development plans to assure that the OAB redevelopment would confer tangible, direct community benefits.<sup>57</sup>

Just as feared by the community, as both the City and Port continued to receive federal land grants of former OAB land, they began discussions with potential developers seeking to expand Port-related freight activities at OAB, even though the approved Redevelopment Plan designated very limited land for such activities. Notably, these discussions were held while parallel discussions were still taking place among WOCAG members and City staff – thus, while the WOCAG was still developing its input on the OAB development process.<sup>58</sup>

Between 2006 and 2008, WOCAG continued to submit its recommendations to the City. During that time, the WOCAG focused its recommendations on the City prioritizing development proposals that result in less truck traffic through West Oakland, due to health

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<sup>54</sup> Oakland Base Reuse Authority, *Gateway to the East Bay: Final Reuse Plan for the Oakland Army Base*, Section 3.2.1, p. 27 (July 31, 2002), available at <http://www2.oaklandnet.com/government/o/CityAdministration/d/NeighborhoodInvestment/o/OaklandArmyBase/DOWD008829> (last accessed April 3, 2017).

<sup>55</sup> *Ibid.*; see also, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 20, Table 2-1 (May 2012), available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak035061.pdf> (last accessed April 4, 2017) (comparing the land-use designations approved in 2002, with those considered and ultimately approved by the City a decade later).

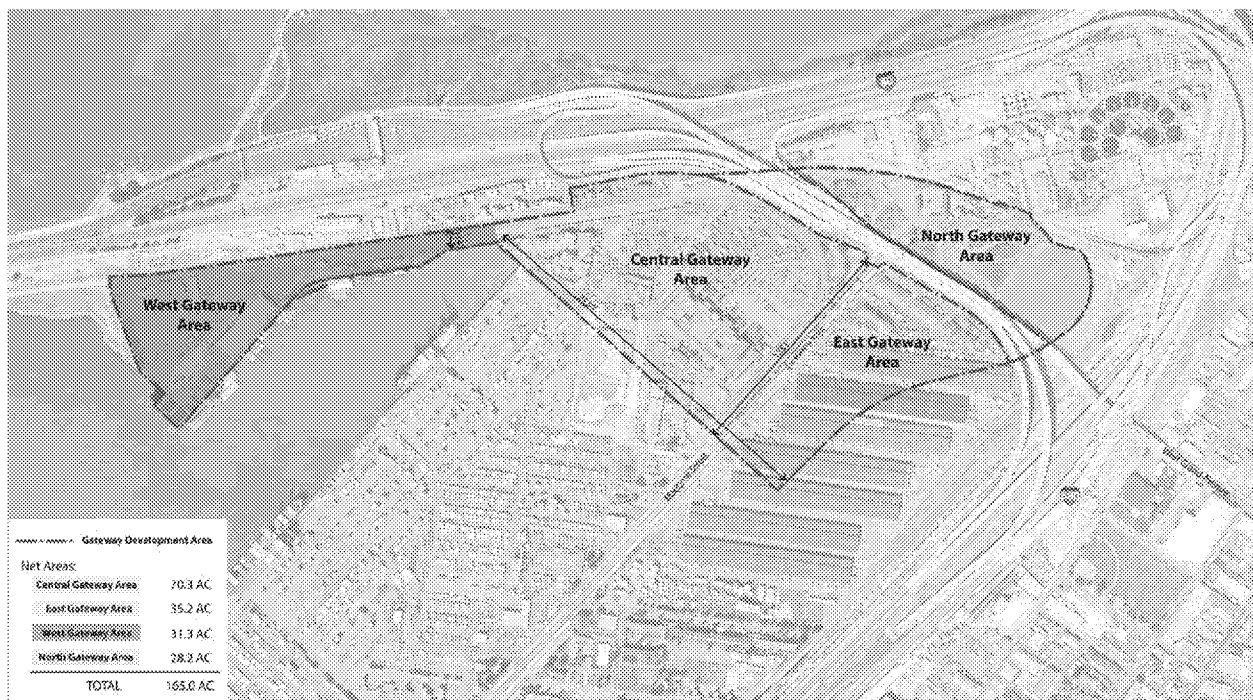
<sup>56</sup> George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002) (noting that “it is an insult to the many citizens of the City of Oakland who have given freely of their time and effort to serve the [Oakland Army Base Reuse Authority] and the City of Oakland in the base conversion process [only] to have their efforts ignored and not evaluated in this EIR”).

<sup>57</sup> George M. Bolton III, West Oakland Community Advisory Group to Scott Gregory, EIR Project Manager, City of Oakland (June 11, 2002).

<sup>58</sup> West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland “Gateway” Development Area*, pp. 4-5 (June 2008).

impacts many residents were already facing due to the Port's growing activity.<sup>59</sup> WOCAG wanted businesses such as truck servicing and truck parking to be relocated out of the community, and to "leave their former sites available for more appropriate, i.e. lower impact commercial use."<sup>60</sup>

Notwithstanding the input received from WOCAG, however, the City continued its discussions with Prologis and CCIG, and began negotiating an agreement with the developers, to build a large-scale warehouse and shipping development project for portions of all three sub-districts created under the City's prior approvals, which became jointly termed, the "Gateway Development Area," pictured in *Figure 6*, below.<sup>61</sup>



*Figure 6* Gateway Development Area.<sup>62</sup>

<sup>59</sup> West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).

<sup>60</sup> West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area*, p. 7 (June 2008).

<sup>61</sup> LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Ch. 2, p. 21 (May 2012), available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak035061.pdf> (last accessed April 4, 2017) ("in 2009 the joint venture between Prologis and [CCIG] was selected as the master developer").

<sup>62</sup> Oakland Redevelopment Agency, *Pre-Development Planning for the Oakland Army Base Gateway Development Area*, Figure 3-1, available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/dowd007624.pdf> (last accessed April 4, 2017).

### C. The City's Port Expansion and "Gateway Development", or 'Oakland Global', Approvals

The land uses proposed in the City's 2002 Redevelopment Plan included a "tech park" comprised of R&D office buildings, and light to moderate industrial and retail development including big box retail stores, hotels and a Cineplex.<sup>63</sup> These land uses did not include as the predominant use for the area the type of heavy industrial, large-scale warehouse, shipping, distribution and maritime activity that the City began to consider through its subsequent negotiations with Prologis and CCIG. Yet, in 2012, the same year the City received its \$2 million comprehensive TIGER 2 planning grant from DOT, the City approved the "Oakland Army Base: Outer Harbor Terminal Project" and executed an exclusive development agreement with Prologis and CCIG to expand port-related maritime activities at OAB.<sup>64</sup> Rather than conduct a new environmental review, however, the City re-approved its decade-old environmental review document that the City's staff presented to the Council as a mere addendum to the EIR analysis prepared and approved in 2002.<sup>65</sup> Rather than designing new and more appropriate mitigation corresponding to the City's new development proposals, the City also claimed that specific mitigation would be determined at a later date, when specific projects were approved.

To give an example of the drastic deviation the City took from its prior approvals, the City's 2012 Redevelopment Plan for the Outer Harbor Terminal Project involved approximately 2.5 million square feet of warehouse/distribution and maritime-related logistics uses, as compared to only 175,000 square feet of office/R&D, where as its 2002 approvals involved only 300,000 square feet of warehouse and distribution development and approximately 1.5 million square feet of office/R&D.<sup>66</sup>

Unsurprisingly, BAAQMD as well as other agencies including ARB, as well as West Oakland residents expressed their concern with the City's proposed "Outer Harbor Terminal Project," which soon simply became known as the Gateway or Oakland Global Logistics Center development project. BAAQMD in particular encouraged the City to analyze how its new development plans would impact future residents near new and existing sources of pollution, and

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<sup>63</sup> See, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, Attachment B, p. 4 (May 2012), available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak035061.pdf> (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

<sup>64</sup> See, Development Agreement By and Between the City of Oakland and Prologis CCIG Oakland Global LLC, Regarding the Property and Project Known as "Gateways Development/Oakland Global, dated July 16, 2013, available at: <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak055211.pdf> (last accessed, March 30, 2017).

<sup>65</sup> See, *ibid.* ("The primary difference between the 2012 Project and what was proposed for the same geographic location in the 2002 Project is a shift from office R&D to a greater amount of warehouse distribution and maritime logistics uses as the predominant use.")

<sup>66</sup> See, LSA Associates for City of Oakland, *2012 Oakland Army Base Initial Study/Addendum*, p. 4 (May 2012), available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak035061.pdf> (last accessed April 4, 2017) (summarizing the differences between the 2012 project, and the project analyzed and approved in 2002).

provided specific suggestions for doing so.<sup>67</sup> But the City refused to conduct an additional impact analysis, again claiming that it was appropriate to defer any such analysis to a later time, and a later approval.<sup>68</sup>

On December 4, 2013, the City approved an “Army-Base Construction-Related Air Quality Plan,” purporting to address construction related impacts but again declining to analyze or mitigate impacts from the long-term operation of the Gateway development projects, or the cumulative construction and operation of the related additional Gateway development projects. The City again received letters from BAAQMD and other agencies, identifying shortcomings in the City’s proposed mitigation set forth in the “Construction-Related Air Quality Plan.”<sup>69</sup> The City again refused to incorporate the types of analysis or mitigation suggested by the agencies.

Most recently, on October 4, 2016, the City approved an additional Northeast Gateway construction management plan allowing Prologis and CCIG to begin construction at the Northeast Gateway site on November 1, 2016, and to eventually operate a global trade and logistics complex that is worlds different than what the City proposed and approved in its initial land use decisions relating to the OAB, and greater “Redevelopment Area.” After the City approved this most recent construction management plan, Prologis issued three “45-day notices” in the month of February, 2017, which relate to three additional air quality plans currently under review by the City: (1) an operations air quality plan for the Northeast Gateway project, which was issued on February 2, 2017; (2) a “Construction and Operations” air quality plan, for the Southeast and Central Gateway Projects, issued on February 3, 2017; and (3) a “Phase 3 Construction” air quality plan, issued on February 9, 2017. To this day, neither the City nor Port has updated the cumulative air quality analysis to analyze or mitigate, in a meaningful manner, the ongoing air pollutant emissions from the construction and operation of the full Gateway, or Oakland Global Logistics Center development project.

#### IV. LEGAL BACKGROUND

DOT regulations implementing Title VI state that “[n]o person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.” 49 C.F.R. § 21.5(a).

These regulations also include the following prohibitions of specific discriminatory acts by recipients of federal funds:

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<sup>67</sup> Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: West Oakland Specific Plan Notice of Preparation of a Draft Environmental Impact Report* (November 21, 2012).

<sup>68</sup> See City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, pp. 4-21 to 4-22 (May 2014).

<sup>69</sup> See, generally, Rachel Flynn, Director, Department of Planning and Building to Deanna J. Santana, City Administrator, *Subject: Approval of Army Base Construction-Related Air Plan* (December 4, 2013), available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak044541.pdf> (last accessed April 4, 2017).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program. . . may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

49 C.F.R. § 21.5(b).

A recipient may not make a selection of a site or location of a facility if the purpose of that selection, or its effect when made, is to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this rule applies, on the grounds of race, color, or national origin; or if the purpose is to, or its effect when made will, substantially impair the accomplishment of the objectives of this part.

49 C.F.R. § 21.5(d).

EPA regulations implementing Title VI state that “[n]o person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, [or] national origin[.]” 40 C.F.R. § 7.30. The regulations also provide a non-exclusive list of specific, prohibited discriminatory acts:

(b) A recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

40 C.F.R. § 7.35.

These regulations make clear that discrimination on the basis of race is a violation of Title VI whether it is the purpose of the decision or its effect. 49 C.F.R. § 21.5(d); 40 C.F.R. § 7.35(c).

## **V. VIOLATIONS OF TITLE VI**

### **A. Discriminatory Acts**

The City's approval of the Northeast Gateway Construction Management Plan on October 4, 2016 is the latest example of the City and Port's discriminatory actions regarding the development and expansion of harmful freight activities at the Port and OAB. The approval is part of a continuing pattern of actions utilizing criteria and methods that have the purpose or effect of subjecting the surrounding community of color to the disproportionate externalities of that freight activity.

Since 2012, the City, in particular, has sought to abandon the original commitment to develop the OAB in a way that would benefit the surrounding community. While the WOCAG was asked to provide input on recommendations for development early in the OAB Redevelopment process, the City proceeded with its own negotiations to expand freight-related activities notwithstanding the community recommendations, and notwithstanding the fact that such activities would add to the impacts on the already overburdened surrounding communities of color. The City has also consistently refused to consider the input of advisory and stakeholder groups including the WOCAG, who urged the City to prioritize development proposals that would result in less truck traffic through West Oakland.<sup>70</sup> At each step of the way, the City has declined to analyze the impacts of expanded freight activities, and has declined to adopt specific mitigation by claiming that such analysis and mitigations were not required or that they would be addressed at a later point.

Since the abrupt change in the proposed OAB redevelopment plan in 2012, the community and concerned agencies have been demanding analysis of the impacts, and assurances that the effects of expanding freight activities will be mitigated. At each step, the City has declined to do any more than assure that the project will comply with existing minimum regulatory requirements.

In 2013, BAAQMD wrote to the City to highlight the City's lax mitigation measures for the OAB redevelopment project, pointing out that the City's plan for reducing construction emissions from the OAB included mitigation measures with easy loopholes for industry. The plan required lower-emitting equipment to the extent that it was "readily available" in the Bay

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<sup>70</sup> West Oakland Community Advisory Group, *Re: Army Base-Economic Development* (February 20, 2006); West Oakland Community Advisory Group, *Community Recommendations for reuse of the City of Oakland "Gateway" Development Area* (June 2008).

Area.<sup>71</sup> The BAAQMD noted that “the Plan does not include any guidance on how it will be determined if the equipment is ‘readily available’ or ‘cost effective.’”<sup>72</sup> BAAQMD concluded its letter with a list of specific recommended requirements for all OAB construction activity. But the City declined to make any of the recommended changes.

In 2014, both BAAQMD and the Alameda County Public Health Department submitted letters raising new concerns with the City’s planning activities. The Alameda County Public Health Department’s letter urged the City to strengthen the proposed mitigation measures, because “[impacts from development at the Port and OAB] will further exacerbate existing health conditions in West Oakland.”<sup>73</sup> BAAQMD contacted the City’s Strategic Planning Division to recommend additional air quality controls, noting that the West Oakland community experiences a higher cancer risk than any other Bay Area community and compliance with minimum regulatory requirements will not be sufficient to reduce health risks in the community to a safe level.<sup>74</sup> Again, the City took no action.

In 2015, BAAQMD expressed concern about the Port’s and the City’s continued reliance on the environmental review conducted in 2002, and re-approved in 2012 as a basis for the continued expansion of port-related infrastructure development at OAB. Among other concerns, BAAQMD expressed serious trepidation regarding the facts that both the 2002 and 2012 reports were based on outdated national ambient air quality standards for fine particulate matter emissions.<sup>75</sup> In addition, the air quality analysis provided in the City’s subsequent air quality management plan analyses only considered construction emissions, and not the long-term impacts from continued development at the Port and OAB.<sup>76</sup>

Most recently, in 2016, BAAQMD, ARB and WOEIP all submitted comments on the Northeast Gateway Construction Management Plan. In a letter addressed to the City, dated June 3, 2016, BAAQMD expressed its concern that, again, the City’s proposed management plan exclusively dealt with the air quality impacts associated with construction, and failed to consider the long-term air quality impacts that would result from the project. BAAQMD also complained that even within its limited scope, the plan did not include air quality mitigation measures

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<sup>71</sup> Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).

<sup>72</sup> Jean Roggenkamp, Bay Area Air Quality Management District to Alisa Shen, City of Oakland, *Subject: Comments on the Oakland Army Base Draft Mitigation Monitoring and Reporting Program (MMRP) Project Manual – Components for Complying With Construction Related Air Quality Requirements (Plan)* (July 22, 2013).

<sup>73</sup> Muntu Davis, Alameda County Health Care Services Agency, Public Health Department to Ulla-Britt Jonsson, City of Oakland, *Subject: Re: West Oakland Specific Plan Draft Environmental Impact Report and Public Health* (March 17, 2014).

<sup>74</sup> Jean Roggenkamp, Bay Area Air Quality Management District to Ulla-Britt Jonsson, City of Oakland, *Subject: Draft Environmental Impact Report for the West Oakland Specific Plan* (March 20, 2014).

<sup>75</sup> Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).

<sup>76</sup> Jean Roggenkamp, Bay Area Air Quality Management District to Tim Leong, Port of Oakland, *Subject: Roundhouse Area Improvements Project Initial Study/Negative Declaration* (June 24, 2015).

necessary to protect health.<sup>77</sup> ARB's letter similarly detailed recommendations for additional mitigation measures that ARB described as "critical to reducing emissions and protecting public health." WOEIP also urged the City to commit to mitigation to address the adverse impacts its approval would have on the surrounding community. These included installing solar panels on warehouses that will be constructed as part of the Gateway project development, and requiring zero-emission technologies for short-haul trucks, including drayage trucks, and cargo handling equipment.<sup>78</sup> Despite the fact that the mitigation measures requested were consistent with the City's minimal mitigation measures approved in 2002, the City declined to include any of the recommended mitigation.

This history of rejecting recommended mitigation is the product of a piecemealed process that denies meaningful public participation by narrowing the scope of the issues that will be considered at each step of the development approvals. When WOEIP raised concerns about the lack of zero-emission technology requirements for the Northeast Gateway project, and the failure to create an emission reduction plan for the development,<sup>79</sup> Prologis, the developer of the Northeast Gateway/Global Logistics Center project, argued that these concerns were not appropriate for the air quality plan under consideration, and that they could be raised when the Air Quality Operations Plan is developed.<sup>80</sup> As a result, the City Administrator dismissed the community concerns in the approved plan.<sup>81</sup> All involved in these approvals, however, know that the opportunities to mitigate emissions from operations will be limited by the physical projects that have been built as a result of the October 4, 2016 approval.

The October 4, 2016 approval demonstrates that the City's promise of future analysis and mitigation are empty. It is not sufficient to consider mitigation after construction is complete because mitigation must be designed into the project, prior to its construction. The October 4, 2016 approval, and subsequent initiation of construction at the Northeast Gateway site show that the City intends to allow development that will disproportionately impact the surrounding communities of color without mitigation. Whether purposeful or just in effect, the City's October 4, 2016 approval denied the benefits of redevelopment investments to the surrounding communities of color. This decision, like the various decisions that have preceded it, was made with the clear intention to streamline approval of expanded freight activities by setting up a process that precluded meaningful public participation. The decision also avoided mitigation requirements that would minimize or prevent impacts on the surrounding communities of color.

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<sup>77</sup> Jean Roggenkamp, Bay Area Air Quality Management District to Darin Ranelletti, City of Oakland, *Subject: Northeast Gateway Construction Management Plan* (June 3, 2016).

<sup>78</sup> Heather Arias, California Air Resources Board to Darin Ranelletti, City of Oakland (May 31, 2016).

<sup>79</sup> Margaret Gordon, West Oakland Environmental Indicators Project to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: Comments Standard Conditions of Approval/Mitigation Measures for the Prologis* [sic] (May 23, 2016); Ditching Dirty Diesel Collaborative to Robbie Morris, California Air Resources Board (May 25, 2016).

<sup>80</sup> Cory Chung, Development Manager, Prologis to Darin Ranelletti, City of Oakland Bureau of Planning, *Subject: RE: DRX151553 – Oakland Global Logistics Center #1 – Response to Air Quality Stakeholder Comments to SCAMMRP Public Outreach Element (Mitigation Measure PO-1)* (August 30, 2016).

<sup>81</sup> Rachel Flynn, Director, Planning and Building Department to Sabrina B. Landreth, City Administrator, *Subject: Construction-Related Air Quality Plan by Prologis for Northeast Gateway at Army Base site*, p. 4 (September 8, 2016).

The City's October 4, 2016 approval is, moreover, a single component of the City's and Port's continuous, systemic pattern of approving, or directly engaging in, the expansion of port-related infrastructure development. This pattern will continue as the City and Port pursue their expansion goals in the OAB Gateway/Oakland Global Logistics Center development. This pattern of conduct results in direct and immediate adverse effects on West Oakland residents who are predominantly people of color, and therefore violates Title VI of the Civil Right Act of 1964.

## **B. Adverse Impacts**

As outlined above, freight activity in and around the West Oakland community is responsible for a host of adverse impacts including elevated cancer risks, higher rates of asthma attacks, and disruption of the basic quality of life in the community.<sup>82</sup> The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan and the City's ongoing approvals of the construction and operations of the full OAB Gateway/Oakland Global Logistics Center development area will add to the already adverse impacts suffered by the surrounding community as a result of freight activities. The October 4, 2016 approval was the first approval of one of several components to the Oakland Global Logistics Center project. This approval provided the City with an opportunity to ensure that the project was designed, and would be built in a way to limit impacts on the surrounding community, but the City refused to ensure that adequate health and safety protections were in place before allowing the developers to break ground on November 1, 2016.

In its 2008 Health Risk Assessment, ARB found that on-road heavy duty diesel trucks were the largest source of cancer risk in the community, followed by ocean going vehicles, harbor craft, locomotives, and cargo handling equipment.<sup>83</sup> All of these sources are associated with the Port's, and now with the OAB's, expanded activities.

While ARB's assessment indicated that emissions would decrease in the future as a result of regulatory actions, the assessment estimated that even after emissions reductions, "the remaining cancer risk will [still] be greater than 200 in a million in the West Oakland community," and that any reduction in emissions would not resolve the disparate impacts that West Oakland residents face when compared to residents living elsewhere throughout the City or the County.<sup>84</sup> ARB's assessment recommended "collective and innovative efforts" at all levels of government to reduce emissions and improve health outcomes in West Oakland, including a

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<sup>82</sup> Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), available at <https://ww2.kqed.org/news/air-pollution-dispute-west-oakland-army-base/> (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), available at <http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/> (last accessed March 31, 2017).

<sup>83</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 2 (December 2008).

<sup>84</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, p. 4 (December 2008).

transition to clean technologies.<sup>85</sup> The City's approval of the Northeast Gateway Construction Management Plan, however, fails to provide any innovative or good faith effort to reduce emissions at and around the project. The City's approval does the opposite by rubber stamping the construction and operation of new large-scale port related infrastructure that will only exacerbate the existing pollution burdens West Oakland residents face.

The Alameda County Public Health Department urged the City to require a more comprehensive evaluation of, and mitigation for, the Northeast Gateway Project's increase in diesel emissions, which are also a major concern given the existing health burdens in West Oakland. Yet the City, as always, refused to adhere to the County Public Health Department's recommendations, and instead chose to adhere to its construction-only approval decision.

### **C. Disproportionality**

The October 4, 2016 approval of the Northeast Gateway construction-related air quality plan is the latest action by the City and Port to push through more freight-related development that already disproportionately impacts the communities of color in West Oakland. The Alameda County Public Health Department has found that racial disparities impact health outcomes throughout the county, and especially in West Oakland.<sup>86</sup> People of color are more likely to experience the negative health outcomes detailed above. As described by the Alameda County Public Health Department, "even at the same rung, African Americans typically have worse health and die sooner than their White counterparts. In many cases, so do other populations of color."<sup>87</sup>

As described above, West Oakland residents are also more likely to face decades of persistent poverty. Black people in Oakland are far more likely to be homeless than any other ethnic group.<sup>88</sup> These same factors are at play within West Oakland, a community that is predominantly populated by people of color. West Oakland faces higher rates of illness, crime, and higher death rates than predominantly White communities in Oakland. Residents of West Oakland face stresses that residents of other communities may never endure.

In recent years, various Bay Area media outlets have published heartbreaking stories of West Oakland residents who fear for their children's lives due to air pollution that triggers

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<sup>85</sup> California Air Resources Board, *Diesel Particulate Matter Health Risk Assessment for the West Oakland Community*, pp. 4-6 (December 2008).

<sup>86</sup> See Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County – Executive Summary* (2008); UC Berkeley Health Impact Group (UCBHIG), *Health Impact Assessment for the Port of Oakland*, p. ES-2 (March 2010), available at <http://www.acphd.org/media/53628/unnatcs2008.pdf> (last accessed April 4, 2017).

<sup>87</sup> Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, pp. 7-8 (2008), available at <http://www.acphd.org/media/53628/unnatcs2008.pdf> (last accessed April 4, 2017).

<sup>88</sup> Alameda County Public Health Department, *Life and Death from Unnatural Causes: Health and Social Inequity in Alameda County*, p. 71, Figure 33 (2008), available at <http://www.acphd.org/media/53628/unnatcs2008.pdf> (last accessed April 4, 2017).

possibly fatal asthma attacks.<sup>89</sup> These media reports, as well as anecdotal reports that have been relayed to WOEIP staff, describe parents making the difficult decision to uproot their lives in West Oakland and move to communities that are less polluted and less disrupted by truck traffic.<sup>90</sup> People want to build communities that allow them to connect with their neighbors, to enjoy parks, and to send their children to play outside. The land gifts of the former OAB properties along with multiple federal grants were intended to spur redevelopment that would benefit the surrounding communities. Instead, the City and Port have decided to “double-down” on the harmful activities that created the current conditions in West Oakland. The City and Port have manipulated their decision-making processes to prevent public participation and avoid costly mitigation investments that might interfere with such development. The October 4, 2016 approval is the latest in a string of decisions that, in purpose or effect, are destroying the vision of a sustainable and healthy West Oakland that residents want to see, and forcing those residents, mostly people of color, to either bear the disproportionate burdens or pack up and move elsewhere.

#### **D. Less Discriminatory Alternatives**

Throughout the various actions outlined above, the City and Port have declined to accept recommendations from either the community or expert agencies on process, analysis, and mitigations. The following less discriminatory alternatives were available, and continue to be available to both the City and Port:

1. The City and Port have the option and opportunity, but have continuously refused, to engage the community in a meaningful process by which to receive and incorporate their input, including their opposition to the Gateway and Oakland Global Logistics Center development proposals, and the continued expansion of the Port’s activities.

Specifically, the City has the opportunity, but has refused, to send notifications regarding each of its piecemealed construction and operation related approvals to all neighborhood residents. The City has also failed to provide clear and consistent opportunities for neighboring residents to provide their input regarding the City’s process for ensuring that the immediate community health and safety concerns from its development approvals are addressed.

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<sup>89</sup> Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), available at <https://www.kqed.org/news/air-pollution-dispute-west-oakland-army-base/> (last accessed March 31, 2017); Katy Murphy, *Pollution takes heavy toll on Bay Area children with asthma*, The Mercury News (February 9, 2013), available at <http://www.mercurynews.com/2013/02/09/pollution-takes-heavy-toll-on-bay-area-children-with-asthma/> (last accessed March 31, 2017).

<sup>90</sup> Grace Rubenstein, *Air Pollution Controversy Swirls Around Oakland Army Base Development*, KQED (May 6, 2014), available at <https://www.kqed.org/news/air-pollution-dispute-west-oakland-army-base/>; See also City of Oakland, *West Oakland Specific Plan: Final Environmental Impact Report*, p. 4-6 (May 2014), available at <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak049140.pdf> (last accessed April 4, 2017) (“While West Oakland’s population has increased by nearly 2,000 people between 1990 and 2010 (at a rapid rate of 15%), the African American population of West Oakland has declined by nearly 5,000 people during the same time period.”).

The City and Port also have the opportunity, but have refused, to post project-related approval documents at the various community organizations, institutions and gathering places around West Oakland, including but not limited to: the West Oakland Senior Center, city libraries, the West Oakland Youth Center and the Hoover Resident Action Council. The City has also refused to require the developers, Prologis/CCIG, to do the same.

The City has also consistently refused, despite being urged by various state, local, county and federal agencies, to convene a transparent interagency and community inclusive process by which to develop and implement a comprehensive assessment of the impacts caused by its land-use and development decisions at the Port and OAB and to both established and implement an updated mitigation, monitoring and reporting program that considers the level and extent of the full Gateway and Oakland Global Logistics Center and expanded Port operations.

2. The City has the option, but refuses, to consider the effects of the full operation of the Prologis and CCIG development of all three Gateway sub-areas prior to issuing its piecemealed approvals. The City and Port also have the option to update their analysis of impacts instead of relying on the outdated 2002 analyses for a redevelopment plan that was drastically different than the current development plans and approvals before the City.
3. The City and Port have had numerous opportunities, but have refused, to develop, or require the development of, a meaningful emissions reduction plan based on an accurate and updated assessment of the current and foreseeable levels of increased freight transport and other heavy infrastructure, maritime, shipping, distribution, storage and Port-related activities occurring at and along the Port and OAB including increases in rail and maritime emissions that are inconsistent with existing rail and maritime emission reduction standards.
4. The City and Port have had the option, but have failed, to produce or, at a minimum, require, a comprehensive truck management plan to address impacts from growing freight activities on the community of West Oakland.<sup>91</sup>

Specifically, both the City and Port have had the opportunity to, but have refused, to develop any requirements for zero-emission technologies at OAB or the Port, which would alleviate some of the air pollution impacts of additional truck traffic in and near West Oakland neighborhoods. They have also refused to require stricter limits (e.g. two minute limits) on diesel truck idling times to address existing health burdens affecting West Oakland residents, and in particular school children throughout West Oakland.

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<sup>91</sup> The Port's approval a drayage truck management plan for the Port fails to address the impacts that increased truck traffic has on the Port-adjacent roadways and truck traffic problems on off-Port property, e.g., the West Oakland community.

The City and Port also have the opportunity but refuse to require plug-in infrastructure as a design feature of all construction, for the Gateway and Oakland Global Logistics Center development to minimize emissions specifically caused by highly polluting refrigerated truck units serving the new Gateway developments.

The City and Port have also had the opportunity, but have refused, to engage in the planning, implementation and enforcement of Truck hauling routes that are designed to minimize community exposures to emissions, fugitive dust, potential hazardous materials, vibrations and traffic safety issues.

Both the City and Port have had the opportunity, but have refused, to enforce parking restrictions throughout the West Oakland residential community. The City has similarly refused to develop or require an enforceable West Oakland Truck Route as a part of its approved construction management Plan for the Northeast Gateway project, or as part of its ongoing approvals for the larger Gateway or Oakland Global Logistics Center project.

Both the City and Port have also had numerous opportunities, but have refused, to accept or apply for additional funding to support targeted emission reduction efforts at the Port, OAB and throughout West Oakland.

5. In large part due to their failure to require either a comprehensive truck management plan, or a meaningful emission reduction plan, both the City and Port have similarly refused to mitigate the negative air quality and resulting health impacts or other disruptions and adverse effects on the quality of life of West Oakland residents, caused by the continued increase in truck traffic to and from the Port and the OAB Gateway/Oakland Global Logistics Center properties.

## **VI. Relief**

Complainant requests that the DOT Departmental Office of Civil Rights and the EPA Office of Civil Rights accept this complaint and investigate whether the City and Port have violated Title VI of the Civil Rights Act and its implementing regulations, and indeed whether they continue to violate Title VI of the Civil Rights Act.

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Complainant further requests that the City and Port be brought into compliance by: (a) requiring the City to withdraw its approvals of the Gateway construction management plans unless and until the City conducts a full review of the construction and long-term operation of all of the Gateway areas, and unless and until the City engages the surrounding community in a meaningful process by which to incorporate their input into new mitigation measures, emission controls, and conditions of approval for the development of the Gateway projects; (b) requiring the Port to coordinate with the City to develop a truly comprehensive truck management and Port emission reduction plan; and (c) Conditioning all future grants and awards from both EPA and DOT to both the City and Port on adequate assurances that the actions of both recipients will comply with Title VI as detailed above.

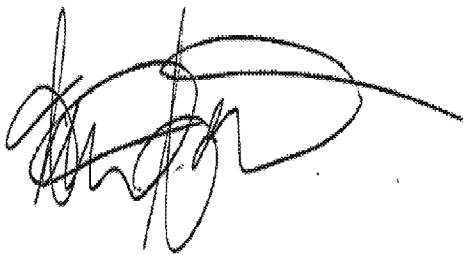
Sincerely,

A handwritten signature in black ink, appearing to be 'Yana Garcia', with a large loop and a long horizontal stroke.

Yana Garcia

Paul Cort

*Attorneys for West Oakland Environmental Indicators Project*

A handwritten signature in black ink, appearing to be 'Adenike Adeyeye', with a large loop and a long horizontal stroke.

Adenike Adeyeye

Research and Policy Analyst

Earthjustice

50 California Street, Suite 500

San Francisco, CA 94111

[ygarcia@earthjustice.org](mailto:ygarcia@earthjustice.org)

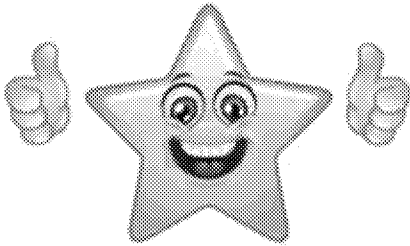
[pcort@earthjustice.org](mailto:pcort@earthjustice.org)

[adeyeye@earthjustice.org](mailto:adeyeye@earthjustice.org)

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/22/2017 1:31:56 PM  
**To:** Veney, Carla [Veney.Carla@epa.gov]  
**Subject:** RE: Logistics for September 26, 2017 Meeting with EPA and DOT



*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** Veney, Carla  
**Sent:** Friday, September 22, 2017 9:30 AM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Cc:** Dorka, Lilian <Dorka.Lilian@epa.gov>  
**Subject:** RE: Logistics for September 26, 2017 Meeting with EPA and DOT

Sure, that would help me out a lot if you guys did the escorting. I will note you both as the POC. Thanks much!

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**From:** McGhee, Debra  
**Sent:** Friday, September 22, 2017 9:28 AM  
**To:** Veney, Carla <Veney.Carla@epa.gov>  
**Cc:** Dorka, Lilian <Dorka.Lilian@epa.gov>  
**Subject:** FW: Logistics for September 26, 2017 Meeting with EPA and DOT

Hi, Carla –

Last small detail. When you give the Security guards the list of attendees,, I'd like it if you would provide the guards with the following ECRCO numbers. That will allow us to send someone to down to escort the guests to the meeting. The numbers to include would be:

Debra McGhee – 564-4646  
And  
Brenda Harrison – 564- 6245

Does that work for you?

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** McGhee, Debra  
**Sent:** Friday, September 22, 2017 9:20 AM  
**To:** Veney, Carla <[Veney.Carla@epa.gov](mailto:Veney.Carla@epa.gov)>  
**Cc:** Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>; Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>  
**Subject:** FW: Logistics for September 26, 2017 Meeting with EPA and DOT

Hello, Carla – Here are the rest of the names for attendees of the September 26, 2017 meeting.

Thanks for your assistance in setting this up.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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**From:** Michele Heffes [<mailto:mheffes@portoakland.com>]  
**Sent:** Thursday, September 21, 2017 5:49 PM  
**To:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>  
**Cc:** Rhines, Dale <[rhines.dale@epa.gov](mailto:rhines.dale@epa.gov)>; Dorka, Lilian <[Dorka.Lilian@epa.gov](mailto:Dorka.Lilian@epa.gov)>; MBee@oaklandcityattorney.org  
**Subject:** Re: Logistics for September 26, 2017 Meeting with EPA and DOT

Hi Debra,

The Port of Oakland and City of Oakland look forward to meeting with you and your colleagues as well. I'm copying my colleague, Maria Bee, on this email so she can correct anything I may have misstated, but the last I heard was that the participants for the 9/26/17 meeting from the Port and City are as follows:

Barbara Parker, Oakland City Attorney  
Claudia Cappio, Assistant City Administrator  
Maria Bee, Special Counsel, City Attorney's Office  
Danny Wan, Port Attorney  
Allison Torrence, Partner with Jenner & Block (Port outside counsel)  
Michele Heffes, Assistant Port Attorney

We look forward to seeing you soon. Michele

Michele Heffes  
Assistant Port Attorney  
(510) 627-1348

On Sep 21, 2017, at 11:27 AM, McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)> wrote:

Dear Michelle:

We here at the EPA look forward to the opportunity to meet with you and your colleagues in person. Since security is always fairly tight in federal buildings, could you please provide me with a list of the individuals who will be attending the September 26, 2017 meeting? This will allow us to coordinate your arrival with security and so speed your entrance to the building. If you could provide both the name and the title of each participant, it would be most helpful.

Thanks for your attention to this matter.

Sincerely,

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** ~ ~ *Martin Luther King, Jr. , 18th April, 1959*

## Appointment

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/21/2017 7:51:53 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** FW: Meeting with Oakland (Port and City) Re: Informal Resolution of the Title VI Complaint **Personal Address / Ex. 6**  
**Location:** EPA Headquarters, 1200 Pennsylvania Ave. NW, Washington, DC (William Jefferson Clinton Building), 4th Floor, Room 4045  
**Start:** 9/26/2017 5:00:00 PM  
**End:** 9/26/2017 7:00:00 PM  
**Show Time As:** Tentative

-----Original Appointment-----

**From:** Minoli, Kevin  
**Sent:** Thursday, September 7, 2017 7:49 AM  
**To:** Minoli, Kevin; howard.carro-lopez@dot.gov; Johnson, Johahna; ryan.fitzpatrick@dot.gov; Redden, Kenneth; Rhines, Dale; Grow, Richard; Packard, Elise; deeana.jang@dot.gov; McGhee, Debra; Strauss, Alexis; O'Lone, Mary; Garnett, Desean; Dorka, Lilian; yvette.rivera@dot.gov; Temple, Kurt  
**Cc:** Trudeau, Shaun; Mills, Derek  
**Subject:** Meeting with Oakland (Port and City) Re: Informal Resolution of the Title VI Complaint **Personal Address / Ex. 6**  
**Personal Address / Ex. 6**  
**When:** Tuesday, September 26, 2017 1:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** EPA Headquarters, 1200 Pennsylvania Ave. NW, Washington, DC (William Jefferson Clinton Building), 4th Floor, Room 4045

Please enter via our north side entrance. Upon clearing security, someone will escort you to the meeting location. Any questions, please call 202-564-8040. Thank you.

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/1/2017 2:25:43 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** Oakland Draft RA.docx  
**Attachments:** Oakland Draft RA.docx

Okay. I just learned more than I really wanted to know about formatting of stored lists in Word. It is fairly well cleaned up.

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 8/31/2017 10:38:37 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Oakland Draft RA.docx  
**Attachments:** Oakland Draft RA.docx

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 8/31/2017 7:04:50 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** FW: Voicemails  
**Attachments:** City of Oakland Position Statement Notes.docx; Port of Oakland Position Statement notes.docx

This guy is smart.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**“Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.”** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Thursday, August 31, 2017 2:10 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Voicemails

I've been involved with this situation for a while and have a pretty good grasp of a lot of the background here.

This may help you get up to speed. Attached are my personal notes on the two Position Statement papers that the City and the Port sent us. I break down their positions and their arguments, and note my own thoughts on that with a “me.” You may find this useful, as those position statements are pretty dense. Keep in mind, these are just my personal notes on these.

I've started putting together a brief description of the substantive elements of a draft agreement as DOT would like to see it as well. As I see it, the main issues here are truck management in West Oakland and air emissions control. But overarching both of those, and crucial to the development of any strategy made to address both of those, is meaningful public engagement. So that's really the first element of any resolution for them, is the development of a meaningful public engagement strategy around the entire OAB redevelopment project, that we can work with them to develop, that will then be used to create a comprehensive Truck Management Plan, and an air quality plan, also with our assistance. That's how I see it. A resolution agreement to the complaint can be used to kickstart the creation of those items and to formalize our involvement in their creation.

Ryan

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

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**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, August 31, 2017 2:03 PM

**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>

**Subject:** RE: Voicemails

Here's the strategy I'm employing at the moment –

I am going through the items at the back of the Complaint which are entitled "Less Discriminatory Alternatives." I'm thinking of those as the complainants' ask, and then reviewing the documents we have on hand that relate to each of the topic areas. It appears that steps have been taken that would get us halfway there to addressing some of the issues, but there needs to be, I think, more enforcement. For example, there is already a state ordinance about idling and the construction plan includes a rendering of how this will be posted. But will it be enforced?

I believe that we would appear more credible during early discussions if we are well versed in information that has been submitted and the steps that have been taken. If the effort that I've described above appears to be duplicative of something that you are already undertaking, please let me know.

That said, sure—why not have a meeting. Next week, perhaps.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** ~ ~ *Martin Luther King, Jr. , 18th April, 1959*

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**From:** Fitzpatrick, Ryan (OST) [<mailto:ryan.fitzpatrick@dot.gov>]

**Sent:** Thursday, August 31, 2017 12:31 PM

**To:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>

**Subject:** Voicemails

Hey Debra:

I got your voicemails. I also got calls from some other folks at EPA, so I think it'd be a good idea to have a meeting next week and discuss our strategy. We can all ask questions, bring everyone up to speed, and get us all working on the projects necessary to be ready for our meeting with the City and Port on September 26.

Ryan

**Ryan N. Fitzpatrick, Esq.**

Lead Civil Rights Analyst

Departmental Office of Civil Rights

Office of the Secretary

U.S. Department of Transportation

W78-312

(202) 366-1979

## City of Oakland Position Statement Notes

- Starts with an expression of the City's interest in working with us
  - Me: This is good, I think they'd be amenable to closing the complaint with finding on the back of a resolution agreement that formalizes our role providing technical assistance on this

### Overview and Summary

- WOEIP and other community groups have been involved with the project throughout its development
  - Me: The question here isn't whether the public has been involved, but whether that involvement is meaningful
- Cites the 4-year process for coming up with the 2002 OAB Reuse Plan
  - Me: Again, the 2002 EIR was significantly changed over the years, and the 2012 IS/A didn't re-do the 2002 public engagement efforts. So the project looks very different than the 2002 EIR. From offices and R+D then, to industrial now.
- Cites the creation of WOCAG in 1996, where Brian Beveridge serves currently as chairperson.
  - Me: So Brian would be useful for a review of WOCAG'S successes and failures
- "The substantial engagement and participation noted above was memorialized by WOEIP and other community organizations in a 2012 Cooperation Agreement..."
  - Me: Read this, this is attached. But on the first page, they acknowledge "the strong slate of benefits and opportunities for West Oakland and the wider Oakland community by way of the [OAB Project]."
    - Me: The City is making the argument that they feel betrayed here. But this isn't really relevant to our investigation.
- City denies that the project significantly changed between 2002 and 2012
  - And makes the argument that as-of-2012, they were fine with it, so how could a single CMP from 2016 cause a Title VI DI from the whole project?
    - Me: This is a weak argument, because there is substantial evidence that WOEIP has been railing against elements of the project since at least the decision in 2012 to do an IS/A for the project changes instead of a new EIR.
- City, like the Port, makes an effort to separate itself from the other, so that the impacts of the OAB project have to be separated and cut in half, rather than be seen in a cumulative fashion.
  - Me: It's a common legal tactic. But the OAB project and its impacts on the community aren't divisible like that, so when it comes to resolving them, let's figure out how to mitigate and address those impacts, and then if the City and Port want to divide up who does what based on their portions of the OAB, that's fine.
  - Me: Ah, right after this, the City acknowledges that the City and Port do coordinate their activities around improving air quality.
    - Me: Excellent, so we can do that, trucks, and public engagement in the same way. There is no prohibition on that.
- First issue:
  - City approval of CMP did not cause disparate adverse impacts
    - Adheres to SCA/MM approved in 2012, and in 2013 they required additional public participation, which was followed by CMP for Northeast Gateway site.
    - When the required MMs come to fruition, public participation is required and will be done, and public review.
    - Me: That doesn't really refute the argument that the decision to go with the logistics facility for the Gateway Dev area will result in an increase of air quality and trucking impacts.

- Second issue:
  - Public participation has been great
    - The 2002 OAB Reuse Plan had it, the 2002 EIR had it required by CEQA, and in 2013 the SCA/MM was modified to include more public participation, which was implemented for the Northeast Gateway CMP

#### Background

- 430 acre OAB Redevelopment Project Area. City owns Gateway Development Area half, and Port the Port Development Area half.
- Subsection A: 2002 Base Reuse Plan and EIR
  - This goes through the process for CEQA, which requires a level of public engagement
  - WOEIP did not comment on the 2002 EIR
    - Me: Why? I'd be curious to know if they liked the project in 2002, or at least tolerated it, and then what changed?
- Subsection B: Community Outreach 2007-2011 and Development of Community Benefit Programs
  - 2007 report issued by City "Pre-Development Planning for the OAB Gateway Development Area"
    - Me: Does this report reflect the earlier office and R+D focused GDA, or the industrial logistics focus that it became?
  - Emphasizes the "extensive and full-transparent public process" used to select a master developer for the GDA in 2012
  - Extensive community outreach culminated in City Council adopting "unprecedented" Project-specific job policies
    - Community Benefits Matrix is adopted related to jobs, contracting, and environmental policies to be complied with by the City and others.
    - Me: The input from the public the City emphasizes including here focuses mostly on hiring and jobs. While this is good, what about community input with regards to emissions reductions and technologies?
- Subsection C: 2012 Amended Base Reuse Plan and EIR Addendum (pg. 8)
  - Plan was amended based on the land uses identified in the RFP's solicited for master developer
    - Me: Right, doesn't that mean that the RFPs were designed incorrectly if the proposals they drew were not in line with the 2002 Plan?
  - 2012 Plan includes logistics distribution warehouses, maritime terminal for bulk cargo, 15 acres of truck parking and support services, and 27 acres to accommodate relocated recycling
    - Me: The relocated recycling removes that from residential West Oakland, that's very good.
  - 2012 IS/A concluded no new significant impacts or substantial increase from previously identified impacts, hence no new EIR. Impacts were actually lower than 2002 EIR.
    - Me: Double-check notes on the IS/A, but I believe this is attributed to changes in CA environmental law, and not to the change in the project. The proper comparison would be the air quality impacts of the 2012 amended Plan vs. air quality impacts had the amendments never occurred and office and R+D uses went forward instead.
  - Subsection D: 2013 Development Agreement, Rezoning and Design Standards; Addition of Mitigation Measure Public Outreach PO-I
    - Reached development agreement with Prologis in 2013

- Added a mitigation measure around public outreach to SCA/MM, PO-1, which outlines a public engagement process around air quality and trucking
      - Me: Study PO-1, and ask for more information and meeting minutes and anything that came out of any PO-1 meetings. If this was insufficient, why? How meaningful was it?
    - PO-1 creates stakeholder list (including WOEIP), holds quarterly meetings to discuss
      - Me: Is this informative, or is it meaningful?
    - Stakeholders receive 45-days notice before release of draft subject plans
      - Then, there is 17 days to comment on draft subject plans
      - Also present to City Council within 90 days of approval
      - Me: This is good, but is it meaningful? It sounds like City makes the plan, gives you 17 days to comment on it, and that's it. But the public isn't involved in making the plan, other than commenting on the completed draft. Decisions have already been made at this point. We need to push the line back further.
    - PO-1 was followed during review and approval of Air Quality Plan for Northeast Gateway
      - Me: So the sufficiency of PO-1 is key. PO-1 is the City's current process for doing public engagement around trucking and air quality at OAB. Bingo.
    - Air quality monitoring shows that diesel PM2.5 is within EPA's range in West Oakland
      - Me: Select Steel is dead. So will this project increase emissions is the question for adversity, not the Clean Air Act
  - Subsection E: WOEIP Previous Concerns and City Response
    - In 2013 WOEIP contacted state and federal about the 2012 IS/A
      - Attached, including fed response. FHWA responded saying that the master plan was not yet completed and so it wasn't ripe yet, in 2013, signed by CA Div Admin.
      - Me: Review the City's response to 2013, because it explains their CEQA decision to use IS/A instead of EIR
    - In 2014 WOEIP sent letter about CES
    - Steps City has taken to limit trucking impacts:
      - Establishment of truck routes in 2006
      - Industrial rezoning in 2008, which restricts trucks and truck related activities near residential zones
        - Me: I want more specifics about these, because I've been to West Oakland and seen the chaos of trucks and truck traffic and truck idling everywhere. Perhaps there are enforcement issues?
      - West Oakland Specific Plan that adopts City policies for future development
        - Me: This was FHWA TIGER II. WOEIP was involved.
  - Subsection F: Basis of Current WOEIP Complaint and the Northeast Gateway Construction Mgmt Plan
    - Stakeholder presentation on the first draft of the Plan was held March 3, 2016, per PO-1
      - Incorporated input and a draft Plan was submitted to City on April 25, 2016 and released to stakeholders on May 13, 2016 for 17-day review.

- Written comments were received, reviewed, and considered, new drafts were revised on July 18, July 27, and August 30. August 30 contained responses to substantive comments from stakeholders including WOEIP.
  - Me: We need to review these drafts, the comments, and then see how they were addressed or incorporated. Meaningfulness is the key here.
- EPA can review the sufficiency of the Air Quality Plan
  - Me: The question for Title VI is not a list of what they are already doing, but instead, how does this increase adversely impactful emissions in West Oakland, and is there anything else that can be done about it?
  - Me: Also want to see the comments on this Plan, as WOEIP, CARB, and BAAQMD all commented. We should also talk with them about the Plan.
- Subsection G: Other Recent City Actions on Air Quality
  - Reducing truck traffic within West Oakland
    - Talks about what it spends on parking.
      - Me: Is 15 acres a lot? Is it already required by law? Lets compare it to other ports for their parking, like in LA and Long Beach, perhaps. Maybe MARAD can evaluate this?
    - Highlights the WOSP as getting trucks out of West Oakland, where Margaret Gordon was a member of steering committee.
      - Me: Lets ask her and other members then about this. I've seen the trucks in West Oakland, never seen anything like it.
    - 2014 rezoning of West Oakland, prohibiting new trucking and truck-related activities
      - Prohibits trucking except on approved trucking routes and on specified freeways
        - Routes were approved in 2006
        - Can only use non-truck city routes to make local deliveries or service industrial-zoned areas
      - Me: Can we make this 2006 truck route list stronger? Or restrict further industrial zoned areas? Also, enforcement is really important.
      - "very limited number of streets in West Oakland can be used by trucks."
        - Me: If this is so, then enforcement is the problem. I've been to West Oakland, its absolutely filled with trucks going in all directions, parking everywhere, in the street and little side lots, idling.
  - Highlight their banning of coal exports
  - Relocating recycling facilities
- Subsection H: Ongoing Efforts (pg. 13)
  - Talks about the December 2016 meeting and ongoing discussions with BAAQMD and CARB
    - Me: This is the meeting I attended. I also met separately with CARB and BAAQMD, and they have a lot of concerns about the OAB and its air quality impacts and the City/Port's refusal to adopt certain air quality measures.
  - City and Port currently planning TMP from MM 4.3-7.

- Currently preparing a public engagement plan for development of the TMP
- Me: This is why we need to get involved now via resolution agreement, because we don't want them doing a year's worth of work on the TMP without meaningful public input, we want the community involved from the outset and we can ensure that.
- Highlights my May 3 technical assistance as well.

The City actions identified in EPA's and DOT's Notification of Acceptance of Investigation do not support a Title VI disparate impact violation

- Subsection A: Legal Standard
- Subsection B; No evidence of disparate impact
  - Evidence shows air quality is improving, so how can there be an adverse impact?
    - Me: That decline is not caused by the project, its caused by California air quality laws, as they acknowledge in IS/A (check this). How does the project at Northeast Gateway impact air quality? You can't rely on Select Steel (it won't cause a CAA violation) to refute this.
  - Cites Texas Dep't of Housing SCOTUS case from 2015 to say they can't be held liable for racial disparities that they did not create.
    - Me: That's true, but they cannot contribute to them or make them worse either. Not everyone gets a bite of the discrimination apple against the same group.
  - Argues that Northeast Gateway and OAB are not the primary reason for bad air quality in West Oakland, since its surrounded by four highways they didn't build.
  - Argues that their OAB development is actually a positive for air quality, and that 2012 IS/A changes make project better for community air quality wise than 2002 version.
    - Me: I fail to see how that's possible, they are trying to take credit for the improvement in regional air quality due to California environmental laws. They acknowledge this in IS/A, double check it.
    - Me: They are making a lot of Select Steel-type arguments here, what does EPA think of that? Basically, air quality doesn't violate Clean Air Act NAAQS, so no adversity by default, even if they do increase emissions.
  - No disparity
    - Says the comparator populations used by West Oakland is wrong
      - Me: This is a weak argument. First, we will do our own comparator analysis. Second, it is undeniable that West Oakland bears the brunt of the impacts from Port and OAB-related activities, and it is also undeniable that West Oakland is disproportionately African-American compared to the rest of Oakland, and the Bay Area, and Alameda County, however you slice it.
- Subsection C: Substantial Legitimate Justification
  - Lays out the benefits of the OAB redevelopment
    - Me: I'd like them to get more specific. For example, is there an SLJ for their refusal to adopt CARB and BAAQMD emissions plans and grants? Why not? They are going to need to justify why they can't or won't adopt more emissions controls or lesser emissions technologies on the project.
      - i.e. if BAAQMD has suggested they put solar on the roof of the Gateway Development logistics center, and City does not want to do that, they will need to justify why. It could be inefficient with regards to cost-benefit, it could be impracticable, infeasible, it could be a lot of things, but you need to justify that, you can't just ignore it.

## Attachments

### **Port of Oakland Position Statement notes**

- Written solely on behalf of the Port, not the City
  - Port is a department of City but a separate legal entity from City
- Port was not involved in City's approval of a construction mgmt. plan or permission for groundbreaking on Northeast Gateway development project
  - Me: That's the City portion
- Port will focus on public participation process and other methods for approving and authorizing new development and expanded activities at the Port
  - Me: That's fine, broad enough
- Port notes that the complaint was submitted more than 180 days after approval of Project
  - Me: That's true, but the timeframes are not limited to when the project began, but its development, which is still ongoing. And DOT is not limited to that 180-day like EPA is
- Port is involved in multiple public outreach exercises:
  - Board's open public meetings, according to law
  - Port's Social Responsibility Department engages with community members to "solicit feedback" on a variety of Port programs
  - Specific community outreach around OAB
  - Meaningful public engagement around CEQA
- Through public engagement, Port has committed to measures and procedures to address Port-related air pollutant emissions that have broken new ground:
  - Air quality mitigation through Vision 2000
    - Me: For all of these, if the Port wants to press this, we should do a request for all information surrounding these, including meeting minutes and a list of input from the public and how and if those ideas were implemented or included
  - Voluntarily undertaking emissions inventories
  - Cooperating with a state-led health risk assessment for West Oakland
  - Developing and implementing a Maritime Air Quality Improvement Plan
    - Me: For some of these, how are these "public engagement" efforts. The Port says that these were done "through public engagement," but what does that mean?
      - Maybe we need to do an RFI anyway, or if not in the context of the settlement, as part of the resolution in development of a PPP for OAB.
  - Developing and implementing a comprehensive Truck Management Plan for the Port
    - Me: I want to see this. Is this the one that only included trucks on Port property and did not address trucks serving the Port off Port-property?
  - Working with the City to develop a City-Port TMP for entire OAB
    - Me: This is currently in development, since our first visit
  - "Cutting-edge" battery powered big rig truck pilot test at the Port
    - Me: Again, what does this have to do with public engagement?
  - Applying for and securing grants to aid in "shore power" infrastructure
- Denies allegation in complaint that the Port has "continuously refused, to engage the community in a meaningful process by which to receive and incorporate their input."
  - Me: The key word there is MEANINGFUL, that's what we'll be looking at, that's what we'll be trying to create with any resolution. Because there is no doubt they do have public outreach activities.
  - They quote Margaret Gordon in 2011 crediting the Port for working collaboratively with the community on the "shore power" project.
    - And another community leader

- Even if the Port's public engagement methods were insufficient (which they are not), there is no causal link between those methods and the alleged disparate air quality in West Oakland, because the Port is not the primary cause of air pollution in West Oakland
  - Me: You don't have to be the primary cause to show a causal link between your operations and air pollution. And, the requirement for meaningful public engagement is IN ITSELF a requirement under Title VI for recipients, and it would violate our regs if we found you don't have a meaningful process, irrespective of its causal link to air pollution.
- Port urges EPA and DOT to close the investigation with no finding, but "remains open to discussing the possibility of an informal resolution of this investigation."
  - Would they be open to developing a joint Public Engagement Plan for the entire OAB, with DOT and EPA technical assistance in its development and implementation, for a period of time?

## Section I: The Port of Oakland

- Subsection A: Port established in 1927
  - A lot of history here about the Port
    - Mainly a "landlord seaport" leasing land and facilities to various private companies, such as marine terminal operators and logistics businesses.
- Subsection B: Port holds all property in trust for people of California
  - Under State's grant and "Tidelands Public Trust Doctrine," uses on the Port's public trust lands must serve statewide, as opposed to purely local, public purposes, limited to water dependent or related uses, including commerce, fisheries, navigation, ecological preservation, and recreation.
    - Me: I can see them making an argument that they CAN'T just consider the local impact. But federal law trumps their state law.
- Subsection C: Port divided into three major areas (Port, airport, commercial)
- Subsection D: Port's fundamental role in the economy

## Section II: Factual Background

- Subsection A: The Port's demonstrated commitment to public engagement
  - Board adopted sunshine ordinance to require more notice and promote full public participation in the Port's decision-making process beyond State law requirements
    - Any approval or authorization made by the Board goes through a "thorough" public notice and review process
    - Sunshine ordinance goes beyond California's requirements under the Brown Act
      - Gives more time for review, and provides for public comment in writing or at Board meetings on any item
    - Adherence to this sunshine ordinance, according to Port, ensures that anything under the OAB development gave "ample notice and opportunity to provide meaningful comment"
  - The Port implements comprehensive outreach coordinated by two Port departments that specifically engage the public
    - Social responsibility department (SRD)
      - Holds multiple public forums throughout the year, and "follows up on suggestions and complaints."
        - Me: This is the kind of evidence we're going to see. What does the Port do with comments and suggestions gathered in this way? How is it addressed?
      - EPA cited their success in July 2016 at engaging the community

- Me: If you read the footnote, EPA's praise focuses on labor and employment, not environmental protection.
  - Port's Environmental Programs and Planning Department (EPPD)
    - Me: CEQA-related engagement
  - Me: What I would need to see here is how meaningful this all is, how is public input incorporated into decisionmaking on the OAB redevelopment?
- The Port fully complies with CEQA, which is designed to provide for meaningful public input
  - The EIR process requires multiple layers of public review and opportunity to comment
    - Me: This is the crux of the problem. The EIR process was concluded in 2002, for a project that is substantially different than it is now. Hence the 2012 IS/A, which DOES NOT require the public engagement of an EIR process.
  - The question is whether a long time has passed, the question is whether the EIR remains relevant
    - Me: That may be true for CEQA, but that's not what we're dealing with here. Here, the question is not whether they were required to do a new EIR in 2012 due to changes in the project, the question is whether the lack of a new public engagement process in 2012 could have a disparate impact on the basis of race
      - Me: Because by 2012, the project was quite different, and the Port did an IS/A instead of a new EIR not because the project had not changed, but because they determined the changes would not result in significantly greater impacts. But as they said before, the Port considers those impacts on a regional basis, not on a local basis as in West Oakland. So the changes could be quite significant to West Oakland residents, but not regionally, and the residents of West Oakland would therefore not be engaged on this new project.
- Subsection B: The Port's success in reducing air pollutants from Port sources
  - Port's 2015 Seaport Emissions Inventory shows major emissions reductions from 2005-2015:
    - Truck DPM decreased from 16 tons to 0.4 tons
      - Me: Does this include only trucks when they are on Port property, or all trucks servicing the Port? This is a point of contention the complainants have brought up, that the trucks go back and forth through their community.
    - Total DPM emissions decreased by 76%
      - Me: Same question. This is better analyzed by EPA, though.
    - Cal Berkeley study in 2015-2016 echoes this
      - Me: EPA should review this. Again, the question is does this only include trucks when they are on Port property?
    - The causes:
      - Truck mgmt. program includes a ban on "dirty" drayage trucks "years ahead" of state's emissions requirements
      - Shipping lines switching to cleaner fuel
      - Plug-in berths
      - Efforts to reduce congestion and idling
      - Railyard

- Negotiations to bring a fueling station and truck service center to Port to keep more trucks out of the neighborhood
      - Me: See, does the community like WOEIP even know about this? This is the kind of proposal that, if developed with a meaningful public engagement process, can be really important to building effective relationships. Its one thing to do it unilaterally, its quite another to do it based on input from the affected community.
    - Container volume increased 3% from 2005-2012, but DPM emissions decreased by 70%.
  - Subsection C: Chronological history of Port emissions reduction programming nad commitment to continued public engagement
    - Vision 2000 Maritime Development Program: Air Quality mitigation program with \$9 million for emissions reduction
      - Project centered around the redevelopment of the former Fleet Industrial Supply Center (FISCO)
        - Developed two new marine terminals, a rail terminal, a public park, roadways, and ancillary facilities
        - Included \$9 million to fund Air Quality Mitigation Program (AQMP)
          - Me: This is all great, but it is indisputably true that West Oakland is an air pollution hot spot, and the Port and port-related activities are the reason why this is so. So the Port's argument to me seems more like "its not as bad as it could be"
      - AQMP TAC included community (including WOEIP), industry members, Federal and State environmental agencies, and other interest groups.
        - Group met regularly to discuss project updates and seek guidance on new projects and programs.
          - Me: Evidence to ask for in a RFI
    - Port voluntarily undertakes emissions inventories
      - Prepared a 2005 Emissions Inventory, then 2012, then 2015
        - Me: This is good, EPA can review. How will OAB, according to IS/A, affect these same levels? What about CARB's review? If I remember correctly, some of these will go up, in "significant, but unavoidable impacts."
        - Me: Does it include only trucks while they are on Port property, or all trucks servicing the Port?
    - Port cooperates with CARB Health Risk Assessment
      - CARB's 2008 study, Port cooperated.
        - Me: They say they will address this HRA later. If I remember correctly, its not good with regards to emissions impact of the Port.
    - Port spearheads development and implementation of maritime air quality improvement plan shaped by local communities and regulatory agencies (pg. 14)
      - For first Emissions Inventory, and for CARB HRA, Port partnered with neighborhood and business reps and air quality regulators to develop the MAQIP, beginning in 2006. WOEIP was part of MAQIP Task Force, so was BAAQMD
        - Met 7x every month or so during plan development phase
          - Role was to propose or review meeting topics, prioritize air emissions reduction measures, deliberate on merits of proposed actions, etc..
          - Open to public, led by neutral facilitator

- Me: Study this, how were these partners involved. Also, ask WOEIP how this involvement looked.
  - In short, while Board was responsible for approving final plan, the content was shaped by planning partners including WOEIP as co-chair.
    - Me: So what I want to know is, what worked here and what didn't. Because when we form an OAB Plan, it should include what is already working, and eschew what didn't.
  - MAQIP finalized in 2009, provides long-term commitment to reducing air quality and health risks
    - Commits to reducing community cancer health risk related to DPM exposure by 85% by 2020 "through all practicable and feasible means."
    - Me: So how is this going? This will be EPA's job to analyze
- Port comprehensive truck management program bans dirty port drayage trucks ahead of state regulations
  - CTMP was adopted in 2009, bans from entry into Port the drayage trucks that fail to meet California truck emission standards
  - In 2011, truck ban updated to require all drayage trucks to meet or exceed 2007 model year California or Federal emissions standards
  - Fulfilled a key mitigation measure from 2002 EIR
  - CTMP developed with a TAC, apparently similar to MAQIP process
    - Me: But noticeably less detail included here. We'd need more information about this. This CTMP is something WOEIP has complained about quite a bit, because it only addresses trucks on Port property, and not truck traffic in the community related to servicing the Port.
  - Port emphasizes the 55 acres of parking on the property, alludes to traffic studies
    - Me: The parking is there, but is 55 acres sufficient? I've been to West Oakland, there are trucks parked and idling all over the place. Parking is seen as a major problem.
- Port actively developing joint City-Port TMP
  - Me: This has picked up steam since our December and May visit, and its imperative that DOT-EPA as part of any resolution get ourselves involved with this, so the public can meaningfully participate
  - Focuses on West Oakland, Port, and OAB
  - Key mitigation from 2002 EIR
    - Me: I thought the 2009 one was the "key mitigation." This second one is happening, it seems, due to community dissatisfaction with the first one
  - Transportation engineering firm is conducting a truck study that specifically looks at drayage truck parking in West Oakland
    - Me: This is good. But how has the community been involved in scoping and planning out this new TMP, thus far?
    - Me: Port says they "set up a table" at the WOEIP Yard Party in August 2015, but is this it? (pg. 19)
  - Port "has begun outreach to initiate that process."
    - Port and City are "designing a robust public engagement process as a component of the TMP."
      - Me: But see, here is where they miss the point. The public engagement process is essential for the CREATION of the TMP itself, not just as part of carrying out a plan that they have already written.

- Port continues to implement emissions reductions programs
  - Talks about some recent developments
    - Me: EPA can analyze, with help from CARB and BAAQMD
- Emissions reduction grants
  - Port has applied for many grants, and received a 2013 EPA clean diesel reduction grant
  - Also has pursued and received many more, including from BAAQMD and CARB and TIGER
  - \$29 million
  - Me: CARB has specifically talked about grant programs that they have, over \$100 million, that the Port could use to develop clean energy and near-zero emissions that the Port has inexplicably refused to apply for. Get more evidence from CARB on this and ask the Port.
- Subsection D: The Oakland Army Base Development (pg. 21)
  - CEQA review process
    - Goes through the CEQA process in 2001-2002
      - Me: The 2002 EIR process is not in question for the agencies, not challenging the sufficiency of that process
    - Goes into the MM/SCAs
      - Being implemented through MAQIP and CTMP (and new TMP apparently?)
    - In 2012, City adopted an amended OAB Reuse Plan, supported by the IS/A to the 2002 EIR.
      - The primary difference between the 2002 EIR and the 2012 IS/A is a shift at the City's Gateway Development Area from office and research and development square footage to "a greater amount of warehouse distribution and maritime-related logistics."
        - Me: This is the crux of the outrage over this, that the City significantly changed the project to be significantly more industrial without doing a new EIR process. The justification for the IS/A was that despite the changes, the impacts wouldn't be significantly greater, because changes to California's environmental laws since 2002 made industrial much cleaner. But it is still a shift from office and R+D to industrial, which will lead to more drayage trucks.
        - Me: While the 2012 IS/A would have lower air emissions than the 2002 EIR despite the changes, this is a bit shifty. The proper comparison is what would the air emissions look like had the Gateway development area remained office and R+D, versus what air emissions look like with the current project.
      - Reference the recycling facilities they moved
        - Me: My point with this is that, this is very good, but the lack of public outreach inherent in the decision to do an IS/A instead of a new EIR in 2012 had them doing this unilaterally, without public engagement, and then acting surprised when no one was thanking them for it.
  - The Port's OAB development (pg. 24)
    - A lot of detail
    - Me: Talking about community outreach over small individual portions of the Port, to me, demonstrates the confusing nature of the whole project, and the need

for an OAB-wide, joint City-Port Public Engagement Plan around the whole thing. That Plan could govern the processes for smaller, more specific efforts, and still host OAB-wide sessions.

- Subsection E: Air Quality in West Oakland (pg. 26)
  - Acknowledges CARB's study findings showing West Oakland's exposure to DPM and the health risks in 2008 HRA
    - Underlines the fact that CARB HRA determined that 80% of increased cancer risk was due to non-Port and non-railroad operations, 4% due to railroad and 16% due to Port.
      - Me: Study this report. Does "Port" include trucks off Port property servicing the Port, going back and forth? If Port disappeared or shrank, would only 16% go away, or would there be the indirect effects?
        - Port says that "on-road heavy duty trucks not associated with Port" are heaviest contributor, but in what way are they not associated with Port?
      - Me: Also, the Port's 2012 IS/A shows that it will create "significant unavoidable impacts" around this cancer risk, increasing it. While the Port may be responsible for (just?) 16%, any adding to it is still an adverse impact under Title VI. You don't have to be the primary polluter for it to be an adverse impact.
        - And under the CARB study, is there a polluter greater than the Port in West Oakland?
  - CARB report not updated since 2008, but BAAQMD and City have.
    - Me: EPA is going to have to assess the data from these monitors.
  - References the EDF Google Street View study 2017, but does not discuss what it says, other than that the worst air is present near industrial facilities and transportation corridors
    - Me: This goes back to their argument that they aren't the worst offenders here, but that has nothing to do with Title VI. See TxDOT's argument in Corpus Christi, the "hey its not our fault Hillcrest is surrounded with toxic hazards, so why should we not be allowed to build here now?" Tort law, "take your victim as you find him."
- Subsection F: The Port maintains strong civil rights and anti-discrimination policies (pg. 27)
  - Basically, the Port complies with civil rights laws
- Subsection G: WOEIP mischaracterizes the Port's public engagement and air emissions reduction
  - Contrary to WOEIP claims, and using the CARB HRA they cite, "most of the pollution" that burdens West Oakland residents comes from sources other than the Port.
    - Me: Good point rebutting WOEIP, but that does not impact a Title VI analysis
  - CARB HRA uses 2005 data, and DPM emissions decreased by 76% between 2005 and 2015
    - From 261 tons to 63 tons
    - Me: Does IS/A estimate the operational DPM emissions increases as a result of the project?
  - Port is distancing itself from the Gateway portion of the OAB
    - Me: That's fair, but OAB redevelopment, while there are separate portions, will, in an operational sense, represent an expansion of Port-related activities. All of it. So it makes sense when developing a plan to lessen the adverse impacts of the OAB to include both parties in all of it.
  - Port has already adopted WOEIP's LDAs

- Me: Here, the Port generalizes what they can be, and then says we are already doing them.
  - Me: But this is why its important for us to get involved, so that we can take the stuff they are already doing and make sure it is done right

### Section III: Legal Analysis (pg. 30)

- Summary
  - Due to Port's location, no less impactful alternative exists beyond the significant efforts the Port has already taken to reduce emissions
- Subsection A: Title VI background
  - They lay out the disparate impact analysis background
  - Me: While they cite the acceptance letter (which I'll admit should not have been worded in that way), your public engagement process can violate our regs outside of the disparate impact analysis
- Subsection B: The Port has not discriminated against the communities of color in West Oakland
  - Me: Go over your CARB HRA again, and your notes on that.
    - Me: Does it say that trucks NOT ASSOCIATED WITH PORT are the overwhelming contributor? This isn't the killer argument that Port thinks, but its good to know
  - "Thus, regardless of the Port's public participation methods, and even if the Port ceased all operations . . . West Oakland residents would still have air quality impacts from industrial business and on-road heavy-duty trucks traveling on the highways surrounding the community." (pg. 32)
    - Me: This an audacious argument from the Port, and is totally irrelevant.
  - In sum, there is a lack of causation here.
    - Me: This a fatally flawed argument. Nowhere does it say in Title VI that you need to be the primary or solo cause of an adverse impact for Title VI to apply to activities that you do contributing to that impact.
      - Me: Think the community isolation argument in Corpus Christi. Tort law: "take your victim as you find them."
  - Legitimate Justification
    - "Utilizing this property to provide modern rail and logistics facilities is legitimate, important, and integral to the Port's institutional mission and duty."
      - Me: That's a fair argument.
  - Less Discriminatory Alternatives
    - Returns to the "water-dependent nature of the Port's operations" and says there is no less discriminatory alternative available to their "thoughtful, transparent, and publicly accessible process to minimize . . . impacts."
    - Says that WOEIP identified some LDAs, but that as described above, the Port is already doing them, citing AQMP, MAQIP, CTMP, and the SCA/MM under the EIR.
      - Me: They also cite their new efforts for a City-wide TMP. This is where a resolution can come about to the complaint, with us formalizing our technical assistance role in the development of this

### Attachments

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 8/31/2017 6:58:58 PM  
**To:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]  
**Subject:** RE: Voicemails

That's the plan, but I have to get it cleared by some levels here first. Like I said, I'll work with the stated goals expressed in the complaint. They want a new health impact assessment. They want new air quality monitoring. They want the construction to include plug in capability so refrigerator trucks don't sit idling. Some better traffic planning. Etc.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Thursday, August 31, 2017 2:49 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Voicemails

Are you working on a resolution framework draft? When you have a draft of it, I'd like to see it over here, so we can comment on it and include our own substantive portions.

Ryan

**Ryan N. Fitzpatrick, Esq.**  
Lead Civil Rights Analyst  
Departmental Office of Civil Rights  
Office of the Secretary  
U.S. Department of Transportation  
W78-312  
(202) 366-1979

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**From:** McGhee, Debra [mailto:mcghee.debra@epa.gov]  
**Sent:** Thursday, August 31, 2017 2:45 PM  
**To:** Fitzpatrick, Ryan (OST) <ryan.fitzpatrick@dot.gov>  
**Subject:** RE: Voicemails

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**Sent:** Thursday, August 31, 2017 2:10 PM

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**Subject:** RE: Voicemails

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This may help you get up to speed. Attached are my personal notes on the two Position Statement papers that the City and the Port sent us. I break down their positions and their arguments, and note my own thoughts on that with a "me." You may find this useful, as those position statements are pretty dense. Keep in mind, these are just my personal notes on these.

I've started putting together a brief description of the substantive elements of a draft agreement as DOT would like to see it as well. As I see it, the main issues here are truck management in West Oakland and air emissions control. But overarching both of those, and crucial to the development of any strategy made to address both of those, is meaningful public engagement. So that's really the first element of any resolution for them, is the development of a meaningful public engagement strategy around the entire OAB redevelopment project, that we can work with them to develop, that will then be used to create a comprehensive Truck Management Plan, and an air quality plan, also with our assistance. That's how I see it. A resolution agreement to the complaint can be used to kickstart the creation of those items and to formalize our involvement in their creation.

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**Sent:** Thursday, August 31, 2017 2:03 PM

**To:** Fitzpatrick, Ryan (OST) <[ryan.fitzpatrick@dot.gov](mailto:ryan.fitzpatrick@dot.gov)>

**Subject:** RE: Voicemails

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I am going through the items at the back of the Complaint which are entitled "Less Discriminatory Alternatives." I'm thinking of those as the complainants' ask, and then reviewing the documents we have on hand that relate to each of the topic areas. It appears that steps have been taken that would get us halfway there to addressing some of the issues, but there needs to be, I think, more enforcement. For example, there is already a state ordinance about idling and the construction plan includes a rendering of how this will be posted. But will it be enforced?

I believe that we would appear more credible during early discussions if we are well versed in information that has been submitted and the steps that have been taken. If the effort that I've described above appears to be duplicative of something that you are already undertaking, please let me know.

That said, sure—why not have a meeting. Next week, perhaps.

*Debra E. McGhee*

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**Sent:** Thursday, August 31, 2017 12:31 PM

**To:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>

**Subject:** Voicemails

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**Sent:** 11/29/2017 6:54:06 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**CC:** Rhines, Dale [rhines.dale@epa.gov]; Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** 2017 11 15 Briefing Doc.docx  
**Attachments:** 2017 11 15 Briefing Doc.docx

I am sending along an update on Oakland.

**1. *City of Oakland City of Oakland/ Port of Oakland (EPA File #s 13R-17-R9/ 14R-17-R9) (Case Managers Debra McGhee and Katsumi Keeler)***

Background: EarthJustice, on behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP) filed a complaint with EPA ECRCO and DOT Department of Civil Rights alleging that City of Oakland's has engaged in a pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB"), while failing to ensure adequate health and safety protections for the surrounding community. The complaint is also filed against the Port of Oakland and alleges a continuous expanding of the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation. describing a pattern of conduct by the City and Port of Oakland that inflicts unjustified and unequal impacts on the historically black community of West Oakland. The complaint further alleges that the City and Port of Oakland's actions inflict unjustified and unequal impacts on the historically black community of West Oakland in violation of Title VI.

Status:

- **On September 14, 2017** ECRCO and CRFLO collaborated in an informal call with the Port's attorney to discuss public disclosure obligations of the port vis-à-vis negotiation of a resolution. According to the Port's attorney, dialogue leading up to an agreement can be kept confidential until 10 days before the Board actually votes to enter into such an agreement.
- ECRCO provided the draft framework of a resolution agreement to Recipients for review on **September 19, 2017**.
- A conference call was held on **September 22, 2017**, to plan for the September 26, 2017 meeting with Recipients.
- **On September 26, 2017**, representatives from the Port and City traveled to D.C. to confer with EPA and DOT, as described above, the Port and City had been provided with the framework of a resolution agreement in order to ensure that they were clear on the nature of the framework and associated expectations and obligations.
  - During the meeting, the City and Port came with a prepared presentation to urge EPA and DOT to consider dismissing the complaint without a finding or an informal resolution. The City and Port stated that they had a "robust" public engagement process and that they were unprepared to commit to specific actions given that the dialogue in which they were currently engaged with stakeholders might, if followed to its conclusion, result in different goals or actions being adopted.
  - The City and Port sought to convince EPA and DOT that, if the complaints were held open without a finding or an agreement, the dispute giving rise to the complaint would be resolved, allowing both agencies to close their cases as moot. The City and Port stated that they were unconvinced that they had violated Title VI in anyway.

- ECRCO, CRFLO, Region 9 and DOT met with DOJ to update regarding status on **October 24, 2017**.
- On November 12, 2017, ECRCO received a joint City of Oakland/Port of Oakland letter stating that Recipients agree to work on the Informal Resolution Agreement and enclosed a redlined copy of the Agreement.
- ECRCO is collaborating with Region 9 in review of the proposed language provided by the Recipients. A call with DOT to determine next steps is scheduled for **December 6, 2017**.

	A	B	C	D	E	F
1	CASE NUMBER: <u>13R-17-R9</u>					
2	CASE NAME : <u>City of Oakland</u>					
3	CASE MANAGERS: <u>Farrell and Keeler</u>		CRFLO LEAD: <u>Mary O'Lone</u>			
	<b>elapsed)</b>					
4	5 days after receipt	Acknowledgement Letter Sent	04/10/17	4/7/2017		
5	5 days after receipt	Region Notified - DCRO sent copy of complaint and notification.	04/10/17	4/7/2017		
6	20 Days after receipt	Jurisdictional Review completed	04/25/17	4/25/2017		
7	20 Days after receipt	Acceptance, Rejection or Referral Letters mailed	04/25/17	7/14/2017		
8	30 Days after Acceptance	Recipients Response to Complaint Received				
9	<b>Early Case Planning Stage (CRM Section 3.2)</b>					
10	30 Days after Acceptance	SCMP Completed	05/25/17	07/07/17		
11	30 Days after Acceptance	IP Completed	05/25/17			
12	30 Days after Acceptance	POC in Regional Office Identified	05/25/17			
13		Prudential Factors Considered (CRM pages 12-13)	05/25/17			
14		Opening of a Compliance Review considered	05/25/17			
15		Determination of whether to offer Early Case Resolution	05/25/17			
16		Initial determination of whether ADR should be offered	05/25/17			
17	30 - 60 days after acceptance	Conduct initial entrance interview with complainant(s)	06/24/17			
18	30 - 60 days after acceptance	Conduct initial entrance interview with Recipient(s)	06/24/17			
19	60 days after acceptance	review and update SCMP & IP	06/24/17			
20		Issue Request for Information (RFIs), if appropriate	06/24/17			
21		Interview Complainants & Witnesses	06/24/17			
22	90 days after acceptance	review and update SCMP & IP	07/24/17			
23		Interview Recipients	07/24/17			
24		Identify & Convene EPA Experts to provide technical assistance as needed.	07/24/17			
25	90 - 120 days after acceptance	Conduct additional interview with Complainant(s)	08/23/17			
26	90 - 120 days after acceptance	Conduct addition interview with Recipient(s)	08/23/17			
27	120 days after acceptance	review and update SCMP & IP	08/23/17			
28		Upload documents to electronic record system	08/23/17			
29		Continue or revisit efforts at resolution	08/23/17			
30	150 days after acceptance	review and update SCMP & IP	09/22/17			
31		Upload documents to electronic record system	09/22/17			
32		Continue or revisit efforts at resolution	09/22/17			
33	180 days after RECEIPT	Complete complaint processing.	10/02/17			
34	180 days after acceptance	Complete complaint processing.	10/02/17			

5  
20  
20

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/27/2017 5:56:08 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]  
**Subject:** RE: Emailing - 2017-09-26 Meeting City of Oakland, Port of Oakland, DOT, and EPA sign-in sheet.pdf

I thought Lilian promised that we'd type it. . . .

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." ~ Martin Luther King, Jr. , 18th April, 1959**

---

**From:** Keeler, Katsumi  
**Sent:** Wednesday, September 27, 2017 1:55 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Emailing - 2017-09-26 Meeting City of Oakland, Port of Oakland, DOT, and EPA sign-in sheet.pdf

So I can send it out as is? I think that's the best way. Why single him out as attending only partially is my thought.

---

**From:** McGhee, Debra  
**Sent:** Wednesday, September 27, 2017 1:49 PM  
**To:** Keeler, Katsumi <Keeler.Katsumi@epa.gov>  
**Subject:** RE: Emailing - 2017-09-26 Meeting City of Oakland, Port of Oakland, DOT, and EPA sign-in sheet.pdf

Katsumi- since Kevin showed up to the meeting with a dozen business cards to distribute, I'd say it is his intent to make his contact information available. I would therefore include him. Thanks for handling this.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in." ~ Martin Luther King, Jr. , 18th April, 1959**

---

**From:** Keeler, Katsumi  
**Sent:** Wednesday, September 27, 2017 1:47 PM

**To:** McGhee, Debra <[mcghee.debra@epa.gov](mailto:mcghee.debra@epa.gov)>

**Subject:** Emailing - 2017-09-26 Meeting City of Oakland, Port of Oakland, DOT, and EPA sign-in sheet.pdf

<< File: 2017-09-26 Meeting City of Oakland, Port of Oakland, DOT, and EPA sign-in sheet.pdf >>

I'm sending this to you in case you want to send it out yourself.

**1. *City of Oakland/ Port of Oakland (EPA File #s 13R-17-R9/ 14R-17-R9) (Case Managers Debra McGhee and Katsumi Keeler)***

Background: EarthJustice, on behalf of the communities of West Oakland, the West Oakland Environmental Indicators Project (WOEIP) filed a complaint with EPA ECRCO and DOT Department of Civil Rights alleging that City of Oakland's has engaged in a pattern of neglect and systemic disregard for the health and wellbeing of West Oakland's residents, as demonstrated by its continuous authorizations of expanded freight infrastructure activities at the Port of Oakland and the former Oakland Army Base ("OAB"), while failing to ensure adequate health and safety protections for the surrounding community. The complaint is also filed against the Port of Oakland and alleges a continuous expanding of the Port's maritime, shipping, and transport activities in a manner that similarly exposes West Oakland residents to severe air pollution emissions without adequate mitigation. describing a pattern of conduct by the City and Port of Oakland that inflicts unjustified and unequal impacts on the historically black community of West Oakland. The complaint further alleges that the City and Port of Oakland's actions inflict unjustified and unequal impacts on the historically black community of West Oakland in violation of Title VI.

Status:

On July 18, 2017, DOT and EPA accepted the complaint for investigation.

- On July 19, 2017, ECRCO followed up with DOT to schedule a next steps conversation for the investigation.
- ECRCO, CRFLO, Region 9 and DOT conferred with attorneys for recipients on August 7, 2017. We discussed informal resolution approach with recipients' attorneys, who seemed initially amenable with the caveat that they would need to confer further with their clients.
- ECRCO provided the draft framework of a resolution agreement, created in collaboration with Region 9 and the DOT, to Recipients for review on **September 19, 2017**.
- A conference call was held on **September 22, 2017**, to plan the details for the September 26, 2017 meeting with Recipients.
- On September 26, 2017, representatives from the Port and City traveled to D.C. to confer with EPA and DOT, as described above, the Port and City had been provided with the framework of a resolution agreement in order to ensure that they were clear on the nature of the agreement and associated expectations and obligations.
- During the meeting, the City and Port urged the EPA and DOT to consider dismissing the complaint without a finding or an Informal Resolution. The City and Port stated that they had a "robust" public engagement process and that they were unprepared to commit to specific actions given that the dialogue in which they were currently engaged with stakeholders might, if followed to its conclusion, result in different goals or actions being adopted.
- The City and Port sought to convince the EPA and DOT that, if the complaints were held open without a finding or an agreement, the dispute giving rise to the complaint would be resolved, allowing both agencies to close their cases as moot.
- The City and Port stated that they were unconvinced that they had violated Title VI in anyway.

- Attorneys for the City and Port agreed to discuss the draft agreement with their principals and to provide EPA and DOT with a redline of version of language they could agree to in 45 days.

Regulatory/ Legal Requirements:

- Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.*
- EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Considerations and Recommendations:

- EPA, Region 9, DOT, and other agencies have been involved for some time with the community issues underlying this complaint as well as the governmental authorities involved.
- Given the conversation with recipients' counsel on August 7, 2017, and statements from counsel regarding prior discussions and alleged breach of agreements/distrust between recipients and complainants, ECRCO believes that ADR is not the first best approach at this time and positioned its discussion with recipients toward an informal agreement approach.

Action Needed: None at this time.

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/26/2017 8:34:59 PM  
**To:** Katsumi Keeler (Keeler.Katsumi@epa.gov) [Keeler.Katsumi@epa.gov]; O'Lone, Mary [olone.mary@epa.gov]; Johnson, Johanna [Johnson.Johanna@epa.gov]  
**CC:** Grow, Richard [Grow.Richard@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** FW: Trucks in West Oakland - Community Workshop 10/11/17

Interesting developments in Oakland, courtesy of our friends in Region 9.

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** ~ Martin Luther King, Jr. , 18th April, 1959

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**From:** Grow, Richard  
**Sent:** Tuesday, September 26, 2017 4:31 PM  
**To:** ryan.fitzpatrick@dot.gov  
**Cc:** Temple, Kurt <Temple.Kurt@epa.gov>; McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** FW: Trucks in West Oakland - Community Workshop 10/11/17

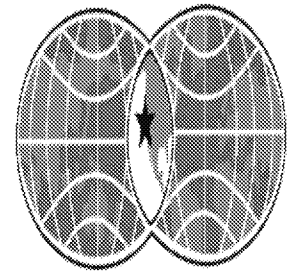
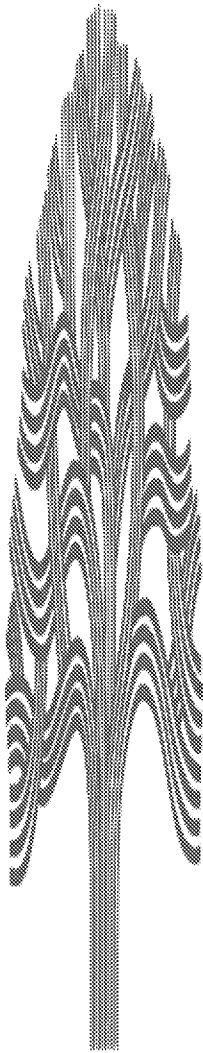
This is the first round of public info on this that we have seen – a similar notice went out last week. Behind the scenes they (the City, Pat McGowan) had had a couple discussions with WOEIP (Margaret and Brian) which I was told were not very productive in terms of hoped for scope and process. I won't be able to make this meeting (out of country) but will continue to follow up.

Richard

---

**From:** City of Oakland & Port of Oakland [<mailto:community@portoakland.com>]  
**Sent:** Tuesday, September 26, 2017 12:16 PM  
**To:** Grow, Richard <[Grow.Richard@epa.gov](mailto:Grow.Richard@epa.gov)>  
**Subject:** Trucks in West Oakland - Community Workshop 10/11/17





**PORT OF OAKLAND**

## **Trucks in West Oakland-Community Workshop**

**ARE TRUCKS IN YOUR NEIGHBORHOOD?  
JOIN US TO LEARN HOW YOU CAN HELP!**

*Taller comunitario sobre los camiones que afectan el vecindario del oeste  
de Oakland*

西屋崙货车管理社区会议

The City of Oakland and Port of Oakland invite you to participate in the "Trucks in West Oakland – Community Workshop" series. The first workshop is

on Wednesday, October 11<sup>th</sup>, between 6:00-8:30PM. The City and Port are initiating a Truck Management Plan for the development of the former Oakland Army Base lands. The City and Port want your input to inform and develop the Truck Management Plan.

**Wednesday, October 11, 2017**

6:00PM – 8:30PM

(Light dinner & registration @ 6PM; Program starts @ 6:30PM)

**Taylor Memorial United Methodist Church**

1188 12<sup>th</sup> Street (multipurpose room), Oakland CA 94607; Cross: Adeline St.

Public Transportation: BART West Oakland Station; AC Transit 14 & 36

Parking available @ 12<sup>th</sup> & Magnolia St., bikes are welcome

**Please RSVP at: <https://trucksinwestoakland.eventbrite.com>**

**To request childcare, interpretation services, or any disability accommodation, please contact us at least 72 hours prior to the meeting:  
[community@portoakland.com](mailto:community@portoakland.com)**

*Councilmember McElhaney, City Administrator, and Board of Port Commissioners look forward to your participation in this planning effort.*

The City and the Port are delighted to host this meeting with a light dinner and child care provided.



## **What is a Truck Management Plan?**



The City of Oakland together with the Port of Oakland need your help to identify how trucks are impacting your neighborhood and find the best solution to those problems. This is what the Truck Management Plan (TMP) intends to do.

**Hotline& Live Chat:**

Call 1-844-OAKPORT (1-844-625-7678) or Live Chat on the [Port of Oakland Website](#), M-F between 8:30am-5pm, for more information about the City & Port Truck Management Plan

**Visit the TMP project page for more information:** [www.oaklandnet.com](http://www.oaklandnet.com)



## Community Engagement

**Who will be involved?**

West Oakland residents and businesses, Port truckers, Mayor's Office, Councilmember McElhaney, City of Oakland, and the Port of Oakland. We hope that you will participate!

**Why are the City and Port doing this now?**

The former Oakland Army Base is being redeveloped by the City of Oakland and Port of Oakland into new logistics and warehousing facilities. The Truck Management Plan is a requirement of the new development.

**Where do we start?**

The City of Oakland and Port of Oakland believe the four major areas to problem solve around are:

1. "Truck Circulation" means what streets are being used by trucks. It also contemplates where trucks are going to-and-from.
2. Truck Parking: are trucks parking in spaces that are allowed?
3. Community Infrastructure: is there proper street signage about parking and truck routes in your neighborhood?
4. Enforcement: how can we assist truckers to abide by the permitted truck routes and street-parking limits?

**How do I get involved?**

Attend the first community workshop on Wednesday, October 11<sup>th</sup>, 6:00-8:30PM at Taylor Memorial United Methodist Church (multi-purpose room).

You can also go to the project website to learn more about other ways to get involved.

**Please tell your neighbors and help us spread the word!**

**Click here to share this event**



Port of Oakland | 530 Water Street, Oakland, CA 94607

[Unsubscribe grow.richard@epa.gov](mailto:grow.richard@epa.gov)

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Sent by [community@portoakland.com](mailto:community@portoakland.com) in collaboration with



Message

---

**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/26/2017 4:29:28 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** RE: Air Quality

Check out the Myth vs Fact on the same website if you aren't otherwise occupied. Definitely gives you insight into their playbook.

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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---

**From:** Temple, Kurt  
**Sent:** Tuesday, September 26, 2017 12:24 PM  
**To:** McGhee, Debra <mcghee.debra@epa.gov>  
**Subject:** RE: Air Quality

Thanks

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**From:** McGhee, Debra  
**Sent:** Tuesday, September 26, 2017 12:02 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>  
**Subject:** Air Quality

From the City and Port's OAB website—

Over course of planning for the redevelopment they say they have engaged in 251 public meetings. They have addressed the City Council with plans 50 times. They are subject to 660 mitigation mandates, they say:

Oakland Global is subject to more than **660 mitigation mandates and conditions of approval by the City of Oakland and the Port of Oakland**, including the establishment of a strict air quality regimen in compliance with regulations of BAAQMD

Just heads up on some of the push back to anticipate.  
[http://oaklandglobal.com/assets/oakland\\_global\\_faq.pdf](http://oaklandglobal.com/assets/oakland_global_faq.pdf)

*Debra E. McGhee*

Team Lead  
External Civil Rights Compliance Office  
Office Phone: 202-564-4646

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Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 9/26/2017 4:02:06 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** Air Quality

From the City and Port's OAB website—

Over course of planning for the redevelopment they say they have engaged in 251 public meetings. They have addressed the City Council with plans 50 times. They are subject to 660 mitigation mandates, they say:

Oakland Global is subject to more than **660 mitigation mandates and conditions of approval by the City of Oakland and the Port of Oakland**, including the establishment of a strict air quality regimen in compliance with regulations of BAAQMD

Just heads up on some of the push back to anticipate.

[http://oaklandglobal.com/assets/oakland\\_global\\_faq.pdf](http://oaklandglobal.com/assets/oakland_global_faq.pdf)

*Debra E. McGhee*

Team Lead

External Civil Rights Compliance Office

Office Phone: 202-564-4646

**"Commit yourself to the noble struggle for human rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in."** ~ Martin Luther King, Jr. , 18th April, 1959

Message

**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 5/23/2017 8:33:47 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** Port of Oakland FFA

## RESULTS SUMMARY

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Filters: Port Board of Commissioners Port of Oakland; Contracts, Grants, Loans, Other Financial Assistance; FY 2017, FY 2016, FY 2015; California; Environmental Protection Agency

### Total Number of Transactions

4

### Total Prime Recipient Transaction Amount

(\$133,639)

### Total Sub-Award Transaction Amount

\$0

<https://www.usaspending.gov/Pages/AdvancedSearch.aspx?sub=y&ST=C,G,L,O&FY=2017,2016,2015&A=0&SS=USA&RS=CA&AA=6800&k=Port%20Board%20of%20Commissioners%20Port%20of%20Oakland>

1 to 4 of 4 transactions.

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<u>Recipient</u> ▲	<u>Award ID</u> †	<u>Award Amount</u> †	<u>Award Date</u>	<u>Award Type</u> †	<u>Awarding Agency</u> †	<u>Funding Agency</u> †	<u>Role</u> †
<a href="#">Board of Port of Commissioners of The Port of</a>	<a href="#">99T06701</a>	(\$411,524)	6/30/2015	Grants	Environmental Protection Agency	N/A	Prime
<a href="#">Board of Port of Commissioners of The Port of</a>	<a href="#">99T06701</a>	\$0	12/30/2016	Grants	Environmental Protection Agency	N/A	Prime
<a href="#">Board of Port of Commissioners of The Port of</a>	<a href="#">99T06701</a>	\$277,885	8/11/2015	Grants	Environmental Protection Agency	N/A	Prime
<a href="#">Board of Port of Commissioners of The Port of</a>	<a href="#">99T06701</a>	\$0	10/27/2015	Grants	Environmental Protection Agency	N/A	Prime

Kurt T. Temple  
Senior Advisor  
External Civil Rights Compliance Office  
EPA Office of General Counsel  
1200 Pennsylvania Avenue, NW  
Room 2524B  
Washington, D.C. 20460  
202-564-7299

Message

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**From:** McGhee, Debra [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MCGHEE, DEBRA]  
**Sent:** 8/30/2017 4:05:40 PM  
**To:** Rhines, Dale [rhines.dale@epa.gov]  
**Subject:** Emailing: This army base once drove West Oakland's economy\_ Now it drives discrimination\_ Grist.mht  
**Attachments:** This army base once drove West Oakland's economy\_ Now it drives discrimination\_ Grist.mht; U\_S\_ EPA kicks-off cleanup at West Oakland Superfund site U\_S\_ EPA News Releases US EPA.mht

Here are the two articles that Ericka has uploaded to the P drive.

Your message is ready to be sent with the following file or link attachments:

This army base once drove West Oakland's economy\_ Now it drives discrimination\_ Grist.mht

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



## News Releases

### News Releases from Region 09

# U.S. EPA kicks-off cleanup at West Oakland Superfund site

03/18/2017

#### Contact Information:

Michele Huitric ([huitric.michele@epa.gov](mailto:huitric.michele@epa.gov))

415-972-3165

**SAN FRANCISCO** – Today U.S. EPA Acting Regional Administrator Alexis Strauss joined local leaders and community members in Oakland to celebrate the installation and start-up of a new groundwater and soil treatment system at the AMCO Chemical Superfund Site. Today's event, which included information booths and tours of the site for community members, was the culmination of a year-long design and construction process.

"Starting up the treatment system marks another step toward a healthier, cleaner neighborhood for West Oakland," said Ms. Strauss. "I applaud the many community members who have been engaged in and committed to the cleanup work that has taken place here over the years."

The AMCO cleanup builds on more than two decades of EPA's efforts to protect public health and the environment in Oakland. EPA has awarded Cypress Mandela Training Center \$1.6 million in grants since 1998, to train low-income, unemployed residents and veterans of Oakland in hazardous waste management and cleanup. Since 2005, EPA has supported community efforts to identify and reduce exposure to toxic pollution, including more than \$600,000 in grants to the West Oakland Environmental Indicators Project and others to reduce diesel pollution. In 2012, EPA completed an innovative project using fish bones to address lead contamination in South Prescott neighborhood soil. Currently, EPA is collaborating with community and partner agencies at the federal, state and local level to combat air pollution related to truck, rail, and boat transport at the Port of Oakland.

The AMCO Superfund site was owned and operated by AMCO Chemical as a distribution facility from 1960 to 1989. Bulk chemicals were off-loaded from a rail spur onsite and stored in drums and storage tanks before being transferred to smaller containers for resale; contaminants were released into the soil and groundwater during operations. Since 1997, EPA has overseen two previous cleanup actions at and adjacent to the site.

For the current cleanup, EPA has installed 69 underground electrodes throughout the site. These electrodes heat the soil and groundwater to temperatures of up to 100°C (212°F) to vaporize and capture contaminants, such as trichloroethylene (TCE) and vinyl chloride. The contaminated material is then collected and transported offsite for safe disposal.

To keep the community informed on the cleanup's progress, EPA is maintaining a public website that provides continuous updates on data related to the treatment system, such as temperature and contaminant levels. EPA is also using an innovative monitoring system to continuously check for chemical levels in the air within and around the site to ensure public safety during treatment. EPA's goal is to finish

treatment by the end of 2017.


You can learn more about the AMCO Superfund Site here: <https://yosemite.epa.gov/r9/sfund/r9sfdocw.nsf/ViewByEPAID/CA0001576081>

Cleanup status can be found here: <https://response.epa.gov/AMCONPL>

###

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LAST UPDATED ON MARCH 20, 2017

004703 2020-10-29

## Appointment

---

**From:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]  
**Sent:** 4/11/2017 7:38:44 PM  
**To:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; O'Lone, Mary [olone.mary@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Caro-Lopez, Howard (OST) [howard.carolopez@dot.gov]  
**Subject:** FW: Oakland complaint investigation DOT and EPA  
**Location:** Teleconference  
**Start:** 4/13/2017 3:00:00 PM  
**End:** 4/13/2017 4:00:00 PM  
**Show Time As:** Busy

-----Original Appointment-----

**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Tuesday, April 11, 2017 1:35 PM  
**To:** Fitzpatrick, Ryan (OST); Rivera, Yvette (OST); Temple, Kurt; Caro-Lopez, Howard (OST)  
**Subject:** Oakland complaint investigation DOT and EPA  
**When:** Thursday, April 13, 2017 11:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Teleconference

To discuss the Earthjustice complaint filed against the Port and City of Oakland, with DOT and EPA

Number  
Passcode:

## Appointment

---

**From:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]  
**Sent:** 8/7/2017 1:25:53 PM  
**To:** Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; O'Lone, Mary [olone.mary@epa.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Farrell, Ericka [Farrell.Ericka@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Grow, Richard [Grow.Richard@epa.gov]; Johnson, Johahna [Johnson.Johahna@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Burroughs, Marian (OST) [marian.burroughs@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]  
**Subject:** FW: City and Port of Oakland complaint discussion  
**Location:** Teleconference  
**Start:** 8/7/2017 7:30:00 PM  
**End:** 8/7/2017 8:30:00 PM  
**Show Time As:** Busy

-----Original Appointment-----

**From:** Fitzpatrick, Ryan (OST) [mailto:ryan.fitzpatrick@dot.gov]  
**Sent:** Wednesday, August 2, 2017 8:45 AM  
**To:** Fitzpatrick, Ryan (OST); Jang, Deeana (OST); Dorka, Lilian; Farrell, Ericka; Temple, Kurt; Keeler, Katsumi; Rhines, Dale; Grow, Richard; Johnson, Johahna; Garnett, Desean; Caro-Lopez, Howard (OST); Burroughs, Marian (OST); Kizito-Ramos, Rachel (MARAD); Hart, Daryl (MARAD)  
**Subject:** City and Port of Oakland complaint discussion  
**When:** Monday, August 7, 2017 3:30 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Teleconference

Good morning:

This meeting was requested by the attorneys representing the City and Port of Oakland. The purpose is to introduce ourselves and answer questions about our Title VI investigative processes.

Number  
Passcode

Personal Address / Ex. 6

## Appointment

---

**From:** McGhee, Debra [mcghee.debra@epa.gov]  
**Sent:** 9/22/2017 4:20:44 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]; Fitzpatrick, Ryan (OST) [ryan.fitzpatrick@dot.gov]; Grow, Richard [Grow.Richard@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; Rhines, Dale [rhines.dale@epa.gov]; Keeler, Katsumi [Keeler.Katsumi@epa.gov]; Johnson, Johanna [Johnson.Johanna@epa.gov]; O'Lone, Mary [olone.mary@epa.gov]; Rivera, Yvette (OST) [yvette.rivera@dot.gov]; Jang, Deeana (OST) [deeana.jang@dot.gov]; Caro-Lopez, Howard (OST) [howard.caro-lopez@dot.gov]; Huezo, Hector (OST) [hector.o.huezo@dot.gov]; Cockfield, Erva (OST) [erva.cockfield@dot.gov]; Hart, Daryl (MARAD) [daryl.hart@dot.gov]; Kizito-Ramos, Rachel (MARAD) [Rachel.Kizito-Ramos@dot.gov]; grow.r@att.net  
**CC:** Strauss, Alexis [Strauss.Alexis@epa.gov]; Israels, Ken [Israels.Ken@epa.gov]; Reyes, Deldi [Reyes.Deldi@epa.gov]  
**Subject:** Preparation for September 26 Meeting with Oakland Port and City  
**Location:** Conference Call//ECRCO Conference Room  
**Start:** 9/22/2017 6:00:00 PM  
**End:** 9/22/2017 7:00:00 PM  
**Show Time As:** Tentative

<!--[if lte mso 15 || CheckWebRef]-->

McGhee, Debra has shared a OneDrive for Business file with you. To view it, click the link below.



2017 09 22 Draft Agenda DORKA.docx

<!--[endif]-->

Call to plan for Meeting with Recipients. A draft Agenda will be circulated prior to the meeting.

CALL IN  
CODE

Personal Address / Ex. 6

## Appointment

---

**From:** O'Lone, Mary [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6402E17D09FB4045A42AE0FA0406DB2B-O'LONE, MARY]  
**Sent:** 9/20/2017 2:38:49 PM  
**To:** McGhee, Debra [mcghee.debra@epa.gov]  
**Subject:** Declined: Preparation for September 26 Meeting with Oakland Port and City  
**Location:** Conference Call//ECRCO Conference Room  
**Start:** 9/22/2017 6:00:00 PM  
**End:** 9/22/2017 7:00:00 PM  
**Show Time As:** Busy

Message

---

**From:** O'Lone, Mary [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6402E17D09FB4045A42AE0FA0406DB2B-O'LONE, MARY]  
**Sent:** 7/18/2017 4:04:42 PM  
**To:** Johahna Johnson (Johnson.Johahna@epa.gov) [Johnson.Johahna@epa.gov]  
**Subject:** RE: Need your input - West Oakland complaint  
**Attachments:** Oakland Joint Acceptance Letter DRAFT RECIPIENTS - Response to DORKA EDITS .mmo1.doc

Sorry – this is the correct version of the comments.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** O'Lone, Mary  
**Sent:** Tuesday, July 18, 2017 11:45 AM  
**To:** Johahna Johnson (Johnson.Johahna@epa.gov) <Johnson.Johahna@epa.gov>  
**Subject:** RE: Need your input - West Oakland complaint

OK.  
I have included my comments in a couple of bubbles.  
But note Kurt sent the drafts to DOT without waiting for our comments, so we should get them to him ASAP.

They aren't major & won't take much to incorporate assuming they reject the proposal that they mention they gave a good cause waiver.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** Redden, Kenneth  
**Sent:** Monday, July 17, 2017 9:17 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** Johnson, Johahna <Johnson.Johahna@epa.gov>  
**Subject:** RE: Need your input - West Oakland complaint

Hi Mary,

I spoke to Johahna about this briefly before I left today. I think ECRCO's decision to not discuss the basis for granting the waiver in the acceptance letter is a policy call. There is no legal requirement that they do so. Because CRFLO agrees that there is a basis to accept jurisdiction and it is documented in the JR, then I see no reason to raise this to Kevin.

Johahna and I did not talk about recipient status. However, if there is a reasonable basis to consider the City of Oakland a recipient, then I don't see a problem here either so long as we document our concerns.

You should send whatever comments you have (on the waiver, recipient status or whatever) to Johahna and, after reviewing them, she can send them to ECRCO. With some carefully crafted language, I'm sure Johahna can soften the blow of this "late hit."

---

**From:** O'Lone, Mary  
**Sent:** Monday, July 17, 2017 5:12 PM  
**To:** Redden, Kenneth <[Redden.Kenneth@epa.gov](mailto:Redden.Kenneth@epa.gov)>  
**Cc:** Johnson, Johahna <[Johnson.Johahna@epa.gov](mailto:Johnson.Johahna@epa.gov)>  
**Subject:** Need your input - West Oakland complaint

Ken-

You have been ccd on some email traffic about the draft acceptance letter for a Title VI complaint about the impacts of the ongoing expansion of the Port of Oakland. ECRCO & DOT are going to accept the complaint jointly. Johahna & I need to know if we should give Kevin a heads up & if so, when.

It isn't a clear cut/run of the mill acceptance, but I think the basis for it is defensible. The complaint was untimely which requires a good cause waiver. Also, when I first began discussing it with ECRCO, it wasn't entirely clear that that the City of Oakland (one of the alleged recipients) was a recipient at the time of the alleged discriminatory act. I advised ECRCO that it needed to clearly explain the basis for granting the waiver & how they are establishing recipient status. ECRCO has since provided a defensible basis to support accepting the complaint. I am pretty sure that ECRCO has discussed the basis for asserting jurisdiction with the Coordination & Review Section of the Civil Rights Division & I believe they are comfortable with ECRCO's approach. (I have to double check this).

In the past, OCR/ECRCO has laid out the 4 jurisdictional criteria & how the complaint satisfies those jurisdictional criteria. This letter only contains a conclusory sentence that the complaint meets the jurisdictional criteria. It doesn't list the criteria or how the complaint satisfies them. It is fine not to list the criteria since they list the reg provision cites for the criteria. I don't know if Lilian has taken a different approach for all acceptance letters going forward or just this one. In the past, I have suggested orally that they acknowledge in the letter that they granted a waiver & the reasons for it to make their decision transparent (something Lilian is fond of saying that she is to both recipients and complainants). If not in their letter, then somewhere in the record. I guess they have decided that they prefer not to include the information in the letter but instead have it documented in their JR memo (which isn't given to the outside world).

I don't know if they've discussed the details of this complaint with Kevin & he is comfortable with the decisions they've made both substantively (waiver & recipient) & to not explain why/how they are asserting jurisdiction in their letter. I plan to renew my oral comment by putting it in writing t them on the next draft. Heads up, Lilian may get bent out of shape claiming it is a late hit – that Ariadne reviewed the letter while I was gone & didn't make that comment. They can agree with my comment or not – their prerogative.

However, I suspect, in response to EPA accepting the complaint, the City of Oakland will make reasonable arguments that under the regs, EPA has no jurisdiction because they weren't a recipient at the time. They may raise the issue with others at EPA. So, I don't want this to come back to bite me if people get their knickers in a twist after the complaint is accepted. This complaint may draw attention as some might argue that it is a large infrastructure project designed to increase trade & create jobs. California, R9, & the local Air Board all have problems with the Port & City's non responsiveness to addressing real pollution impacts in the West Oakland area from the Port.

Does this need to be flagged for Kevin's situational awareness? Or do we assume that ECRCO has it all appropriately covered?

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

Message

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**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 7/17/2017 9:29:32 PM  
**To:** O'Lone, Mary [OLone.Mary@epa.gov]  
**Subject:** RE: West Oakland -- question about JR memo



Oakland

Brownfields Grant d

Mary: See attached. Kurt

---

**From:** O'Lone, Mary  
**Sent:** Monday, July 17, 2017 4:28 PM  
**To:** Temple, Kurt <Temple.Kurt@epa.gov>  
**Subject:** West Oakland -- question about JR memo

# Deliberative Process / Ex. 5

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

Message

---

**From:** O'Lone, Mary [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6402E17D09FB4045A42AE0FA0406DB2B-O'LONE, MARY]  
**Sent:** 7/17/2017 8:27:54 PM  
**To:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Subject:** West Oakland -- question about JR memo

Kurt - I got this from last version of JR memo. I understand the argument for coverage is that the grant start date of 8/1/2016 (regardless of the date of the action taken by the City Council). But when did the City Council authorize the City Administrator to accept & appropriate the \$110,000 from the grant?

**City of Oakland:** Received \$110,000 of \$550,000 EPA Brownfields assessment grant, with a start date of 8/1/2016. The City Council authorized the City Administrator to accept and appropriate \$110,000 in funds from the grant. The City's Public Works, Environmental Services Division (ESD) is the program receiving the grant funds.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

Message

---

**From:** O'Lone, Mary [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6402E17D09FB4045A42AE0FA0406DB2B-O'LONE, MARY]  
**Sent:** 4/6/2017 8:13:32 PM  
**To:** Goerke, Ariadne [Goerke.Ariadne@epa.gov]; Dorka, Lilian [Dorka.Lilian@epa.gov]; Temple, Kurt [Temple.Kurt@epa.gov]; McGhee, Debra [mcghee.debra@epa.gov]  
**CC:** Spiegelman, Nina [Spiegelman.Nina@epa.gov]; Israels, Ken [Israels.Ken@epa.gov]  
**Subject:** Title VI complaint about West Oakland FW: EJ News 04/07/17  
**Attachments:** Race, ethnicity, and air pollution new directions in environmental justice..pdf; Building a Resilient and Equitable City How to Advance Environmental Justice Through the OneNYC Plan.pdf

FYI – in case you hadn't heard or seen it. See first BNA article about Title VI complaint filed re: West Oakland Port. There is a link to the complaint.

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** OGCLibrary  
**Sent:** Thursday, April 06, 2017 3:26 PM  
**To:** Andrews, Mary ; Bianco, Karen ; Buzzelle, Stanley ; DeMocker, Jim ; Goerke, Ariadne ; Guadagno, Tony ; Hall, Katherin ; Jefferson, Tricia ; Lee, Charles ; Knorr, Michele ; Rhodes, Julia ; Ruhl, Suzi ; Siciliano, CarolAnn ; Tripathi, Arati ; O'Lone, Mary ; 'Marcus.england@faa.gov' ; 'Wilbur.barham@faa.gov' ; 'lori.pierce@faa.gov' ; Johnson, Johanna ; Biffi, Betsy  
**Subject:** EJ News 04/07/17

## Bloomberg BNA

### Port Expansion Polluting West Oakland, Calif., Complaint Says

*BNA - Daily Environment Report* 05 Apr 2017 18:58

#### Daily Environment Report™

Air Pollution • Group files complaint with the EPA and Transportation Department • Seeks halt to federal funds while port project is studied By Carolyn Whetzel Environmental justice advocates April 5 asked the federal

government to halt funding for...

### Australia Fails to Address Coal Plant Pollution: Legal Group

*BNA - Daily Environment Report* 05 Apr 2017 00:00

Air Pollution • Annual pollution database shows spikes in airborne pollutants, group says • Government data is Australia's version of a toxics release inventory By Murray Griffin Annual pollutant discharge data from nearly 1,700 Australian business sites...

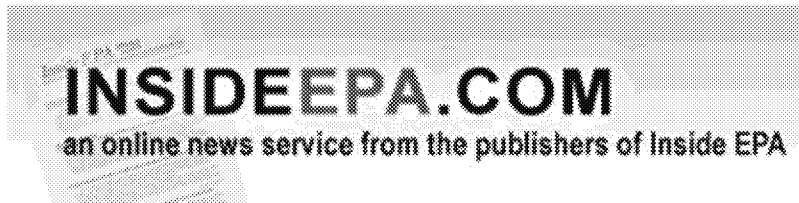
### Attorneys Must 'Step Up' to Environmental Justice Challenges

*BNA - Daily Environment Report* 03 Apr 2017 19:30

Environmental Justice • Environmental justice must be a priority for corporations, said the speaker of the California State Assembly • Urges attorneys to pay attention to justice issues early on By Carolyn Whetzel and Tiffany Stecker Environmental...

### National Environmental Justice Advisory Council Meeting

GENERAL ENVIRONMENT AND SAFETY Notice of the EPA announces a meeting of the National Environmental Justice Advisory Council. The meeting will include discussion on environmental justice concerns of communities in Minneapolis and surrounding areas and...



No stories this week.



## EPA

### Senior official who just quit warns of 'devastating' impacts

Amanda Reilly, E&E News reporter

Published: Monday, April 3, 2017

HOLLYWOOD, Calif. — The former head of environmental justice at U.S. EPA on Friday warned that proposed cuts to the agency's budget would be "devastating" to minority and low-income communities.

Mustafa Ali, who quit his position at EPA a few weeks ago, urged the Trump administration to work collaboratively with communities, swiftly appoint a new environmental justice head and step up enforcement activities.

If not, "we will see many more egregious types of actions that will happen inside of those communities and the surrounding area," Ali said at the American Bar Association's annual spring environmental law conference here.



Mustafa Ali. Photo courtesy of the Berkley Center for Religion, Peace and World Affairs at Georgetown University

Ali formerly served as EPA's assistant associate administrator for environmental justice after working at the agency for nearly two decades under several administrators. He was a founding member of EPA's environmental justice office and also formerly worked on Capitol Hill as a fellow for Rep. John Conyers (D-Mich.).

Last month, Ali wrote a public [letter](#) resigning his post and told reporters that he couldn't "in good conscience be supportive" of the Trump administration's agenda ([Greenwire](#), March 9).

On Friday, Ali expanded on his decision to write the letter, which offers advice to new EPA Administrator Scott Pruitt.

"Our new administrator had said in his Senate confirmation testimony that he understood some basic concepts around environmental justice but he did not have any in-depth knowledge of that space," Ali said. "So I thought that it was important to be able to share the challenges that still exist inside of communities but also to share with him some of the opportunities that exist in working with these communities."

Ali also revealed that he had not had any conversations with Trump administration officials before or after the inauguration about the agency's environmental justice work.

He said he was pleased with the attention that his resignation letter has gotten over the past few weeks.

"I feel comfort in the fact that the perceptions that I was receiving from the administration on their commitment, or lack thereof, to our most vulnerable communities has really come to light now," he said.

Ali also warned that the Trump administration's budget proposal — which would cut EPA's budget by 31 percent and eliminate a host of staff positions — would cut enforcement of environmental laws inside of low-income communities.

The budget has proposed cutting environmental justice, environmental education, climate initiatives and other EPA programs.

While it's unclear whether the Congress will enact those proposals or pass more limited cuts to EPA's budget, certain agency programs are likely to be axed, and enforcement dollars will likely be decreased.

Ali slammed the administration as hypocritical for its focus on "certain types of enforcement" and not others in urban areas.

"Our new administration sees great value in certain types of enforcement inside of communities — making sure we have more law enforcement there, which can play a positive role if it's done properly," he said. "But doesn't seem to have the same level of commitment in making sure that we have inspectors and other enforcement personnel around making sure that folks are doing the right thing."

Ali also said reductions in state grants would hurt efforts to work with communities on environmental justice and efforts to gather scientific data needed for enforcement.

Since leaving EPA, Ali has become senior vice president of climate, environmental justice and community revitalization at the nonprofit Hip Hop Caucus.

The former official urged the administration to find a replacement for him as soon as possible.

"In the development of policy, if you do not have someone who is well-versed in this area, then you could have gaps," he said.

Jeff Wood, President Trump's acting top environmental lawyer, said Friday that environmental justice remains a concern for the administration and that the Clinton administration's 1994 executive order directing agencies to address environmental justice issues remains in effect.

**CLIMATEWIRE**

# BUDGET

## EPA proposal cuts hundreds of climate change employees

Emily Holden, E&E News reporter

Published: Tuesday, April 4, 2017



Cuts to U.S. EPA are even deeper than expected. Photo courtesy of the Federal Privacy Council.

A memo detailing how U.S. EPA would cut its budget by one-third shows that the agency would eliminate hundreds of employees working on climate change, including 20 lawyers who provide support for the Clean Power Plan.

Overall, EPA would reduce staffing from about 15,000 to a full-time equivalent (FTE) ceiling of 11,547, according to the document, which was first reported by *The Washington Post*.

Acting Chief Financial Officer David Bloom sent the blueprint to the heads of EPA departments on March 21. They are supposed to provide feedback and explain how they would make the cuts and still fulfill statutory requirements. Acting assistant administrators are meant to certify the budget plan by April 25.

"This resource level will require taking a comprehensive look at our priorities and thinking differently about the best ways to accomplish our core statutory responsibilities," Bloom wrote.

The proposal lists many programs slated for elimination as duplicative, outside EPA's essential duties or "mature." It also seeks to fund some programs with more industry fees.

President Trump has proposed halving the budget of EPA's Office of Research and Development. The memo shows that would mean eliminating \$19.4 million of EPA's climate change research that is conducted in coordination with the U.S. Global Change Research Program and cutting 47 FTE. It would also mean getting rid of \$10.6 million for the Science to Achieve Results grant program, which funds research at universities.

As previously reported, the proposal would eliminate the \$69.7 million Climate Protection Program, which houses voluntary partnerships like Energy Star. It would cut 224 FTE from that program.

EPA would eliminate \$7.2 million and 11 FTE for environmental education, and \$1.8 million and 12 FTE for the Office of Public Engagement. EPA would also cut \$2 million and 40 FTE for environmental justice.

In addition, the proposal would move money around at the Office of the General Counsel, nixing lawyers working on the Obama administration's climate standards for power plants, which Trump has moved to gut.

Outside of climate, the budget document attempts to shift responsibility for many federal environmental laws to states. It would cut categorical grants like those for air quality, lead, pesticides enforcement and diesel emissions, resulting in a reduction to \$597 million from \$1.1 billion.

Bill Becker, head of the National Association of Clean Air Agencies, which represents state air regulators, said that taken together, the cuts are dramatic, and states would have trouble footing even more of the bill than they already do.

"Everyone is assuming that Congress will come to the rescue, but the problem is Congress is responding to a budget the administration has proposed, and it's doubtful that they're going to go in blindly," he said.

He added that Congress has been legitimately criticizing EPA for failing to publish air standard guidance on time, but this budget would make that even harder to accomplish.

The proposal also assumes the agency would see a decrease in new regulatory actions and would cut 24 FTE from EPA's Regulatory, Economic, Management and Analysis program, which evaluates the impact of regulations on business and the economy.

The blueprint directs two EPA departments to look at legislative options for privatizing Energy Star, the energy efficiency labeling program for consumer products. It aims to do something similar for vehicle emissions standards. EPA appears to want to recover the costs of ensuring vehicles meet standards by instituting more fees on industry, which would require action from Congress and likely create a budget shortfall in the meantime.



No stories this week.

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## **Race, ethnicity, and air pollution: new directions in environmental justice.**

Ahlers, Christopher D.  
Environmental Law 46 4 713(46)

Environmental justice recognizes that low-income, minority communities are disproportionately affected by air pollution, and that this problem should be addressed through environmental law and policy. While it is easy to identify general relationships between poverty, demographic patterns, and air pollution, it is far more difficult to demonstrate that companies build industrial facilities at particular sites based on the racial or ethnic composition of the neighboring community, or even that a minority community would be subject to disproportionate health and welfare impacts from a particular facility. It is even more difficult to prohibit the construction of industrial facilities based on a disproportionate impact on low income, minority communities. This Article reviews the reported cases considering the decimation-based claims of the environmental justice movement, in the context of permitting and environmental reviews for industrial facilities. It concludes that this approach has not been successful in limiting their construction and operation. (article attached)

## **Building a Resilient and Equitable City: How to Advance Environmental Justice Through the *OneNYC* Plan**

Eddie Bautista, Juan Camilo Osorio, Pamela Soto, Annel Hernandez

Many of the challenges that cities face today stem from historic and entrenched systemic policies and processes that result in the inequitable distribution of environmental burdens. Eddie Bautista, Juan Camilo

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Osorio, Pamela Soto and Annel Hernandez explain the logic behind the New York City Environmental Justice Alliance's1 policy and advocacy work to strengthen their local government's climate-change adaptation efforts in response to particular risks affecting low-income neighborhoods and communities of color. (article attached)

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Jennifer Turley, Law Librarian  
U.S. Environmental Protection Agency  
202/564-3971  
[turley.jennifer@epa.gov](mailto:turley.jennifer@epa.gov)

***Tell us how we're doing - rate our customer service!***

<http://www.surveymonkey.com/s/epalibsurvey>

Message

---

**From:** Schaedle, Candi [Schaedle.Candi@epa.gov]  
**Sent:** 6/7/2017 1:38:16 PM  
**To:** O'Lone, Mary [OLone.Mary@epa.gov]; Roemele, Julie [Roemele.Julie@epa.gov]  
**CC:** Marshall, Tom [marshall.tom@epa.gov]  
**Subject:** RE: question about infrastructure projects

Hi Mary,

I also did a search on "Oakland" and "port" and nothing came up that was related. I believe the permitting dashboard consolidated the FAST Act infrastructure projects and legacy projects onto this site. There may not be a federal angle right now for the Port of Oakland if an infrastructure project is ongoing there. The State of California may have some information on port projects they may be funding - <http://www.dot.ca.gov/hq/tpp/offices/ogm/seaports.html>.

Also, MARAD plays a role on ports - <https://www.marad.dot.gov/>. I've copied Julie on this email since she is the federal agency liaison for DOT and MARAD and may know if there are any other infrastructure project lists out there.

---

**From:** O'Lone, Mary  
**Sent:** Wednesday, June 07, 2017 8:59 AM  
**To:** Schaedle, Candi <Schaedle.Candi@epa.gov>  
**Cc:** Marshall, Tom <marshall.tom@epa.gov>  
**Subject:** RE: question about infrastructure projects

Thanks so much. I had attempted to do a search of the dashboard & didn't find anything but wasn't sure I was searching it effectively. Please do let me know if it does pop up.

Is there any other list of infrastructure projects that have been named as critical/we really want these to move forward or is the Fast41 it?

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

---

**From:** Schaedle, Candi  
**Sent:** Wednesday, June 07, 2017 8:52 AM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** Marshall, Tom <marshall.tom@epa.gov>  
**Subject:** RE: question about infrastructure projects

Hi Mary,

As far as I'm aware there are no projects listed as a FAST-41 covered project for the Port of Oakland. The FAST-41 projects are listed on a permitting dashboard site at <https://www.permits.performance.gov/projects>. If any new projects are listed for the Port, I'll let you know.

Thanks,

Candi

---

**From:** O'Lone, Mary  
**Sent:** Wednesday, June 07, 2017 8:27 AM  
**To:** Schaedle, Candi <[Schaedle.Candi@epa.gov](mailto:Schaedle.Candi@epa.gov)>  
**Cc:** Marshall, Tom <[marshall.tom@epa.gov](mailto:marshall.tom@epa.gov)>  
**Subject:** question about infrastructure projects

Candi-

Tom Marshall mentioned that you have information on fast 41 projects or other infrastructure tracking mechanisms. I would like to know if projects for the Port of Oakland are on any of those lists.

Thanks so much, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

Message

---

**From:** Temple, Kurt [Temple.Kurt@epa.gov]  
**Sent:** 6/2/2017 7:01:53 PM  
**To:** O'Lone, Mary [OLone.Mary@epa.gov]  
**Subject:** RE: EPA City of OaklandFFA  
**Attachments:** ABAG.pdf

So with respect to the new link and EPA funding I found, it seems that Oakland is not a sub to that one:

<http://abag.ca.gov/abag/events/agendas/e111915a-Item%2006G,%20Urban%20Greening%20Bay%20Area%20Project.pdf>

But, I found the original ABAG grant proposal for the Brownfields grant from December 18, 2015 – the one that found approval action from the City of Oakland, but subsequent to the alleged October 4, 2016 discriminatory act. See attached. ABAG asked for \$600,000, EPA ultimately awarded \$550,000.

<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=1FBDEACB-08C4-4A91-8730-10BECE6ACBFE&AwardID=54100394&AwardType=G>

Anyway, City of Oakland was identified in the original grant proposal, as part of the East Bay Coalition (See Attachment B, at page 22 of the .pdf), and provided a letter to commit support and participate in the grant. The letter states that ABAG is submitting the grant application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. See Attachment C, at page 28 of the .pdf).

According to this grant proposal, Oakland was always seen as beneficiary of the EPA grant.

Kurt T. Temple  
Senior Advisor  
External Civil Rights Compliance Office  
EPA Office of General Counsel  
1200 Pennsylvania Avenue, NW  
Room 2524B  
Washington, D.C. 20460  
202-564-7299

---

**From:** Temple, Kurt  
**Sent:** Friday, June 02, 2017 12:22 PM  
**To:** Grow, Richard <Grow.Richard@epa.gov>  
**Cc:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Subject:** FW: EPA City of OaklandFFA

**Richard:** Do you or Deldi have any insight regarding the below, and what it means for Oakland to be a “partner”, i.e. does it mean that it got some of this money? Any help on this is appreciated. Kurt

This is an ABAG grant from EPA that the City of Oakland may be involved with. This goes from 7/1/2015 to the end of 2018:

<https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=D8BACD59-A0A7-4C21-B6BD-1E71F05ABCD2&AwardID=44525956&AwardType=G>

I found a description of this elsewhere and trying follow up to find something more official:

### **Urban Greening Bay Area**

--\$1,730,862 to San Francisco Estuary Partnership/Association of Bay Area Governments (ABAG) with partners San Francisco Estuary Institute, San Jose, Sunnyvale, San Mateo, Richmond and Oakland.

--Upgrading the "GreenPlan-IT" GIS tools to increase widespread implementation and tracking of green infrastructure in the Bay Area to improve water quality.

# ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

Mr. David R. Lloyd  
Office of Land and Emergency Response  
Office of Brownfields and Land Revitalization  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W., MC:5105T  
Washington, DC 20460

December 18, 2015

R09-16-A-003

RE: Transmittal Letter

Dear Mr. Lloyd:

This constitutes the Transmittal Letter for the Association of Bay Area Government's Brownfields Coalition Assessment Grant application.

Applicant: Association of Bay Area Governments  
DUNS number: 07-907-392000000

**Funding Requested**

Grant type: Brownfields Coalition Assessment Grant  
Amount: \$600,000  
Contamination: Hazardous Substances (\$300,000) and Petroleum Products (\$300,000)

Location: Cities of Oakland, San Leandro, and Hayward and County of Alameda California

Contacts: Project Manager  
JoAnna Bullock, Senior Planner and Grants Administrator  
MetroCenter, 101 8<sup>th</sup> Street, Oakland, CA  
510 464-7968 office 510 464-7985 fax  
joannab@abag.ca.gov

Chief Executive  
Ezra Rapport, Executive Director  
MetroCenter, 101 8<sup>th</sup> Street, Oakland, CA  
510 464-7900 office 510 464-7985 fax  
ezrar@abag.ca.gov

Date submitted: December 18, 2015

Project Period: July 2016 – July 2019

Population: 180,000

Mr. David R. Lloyd  
Page 2

Thank you for your consideration of our grant application. We hope that we have developed a compelling justification for funding site assessments in the along the San Francisco Bay Area and look forward to advancing this important work to transform the East 14<sup>th</sup> Street/Mission Boulevard corridor.

Respectfully,

A handwritten signature in dark ink, appearing to read "Ezra Rapport", written in a cursive style.

Ezra Rapport  
Executive Director

## East Bay Coalition Brownfields Assessment Grant Application

### 1. COMMUNITY NEED

#### 1.a Economic and Community Benefits

**1.a.i. Targeted Community Description:** The target area is located in the cities of Oakland, San Leandro and Hayward as well as the Ashland and Cherryland Census Designated Places in unincorporated Alameda County, within the East Bay of the San Francisco Bay Area. Together with the Association of Bay Area Governments (the coalition lead), these jurisdictions make up the coalition.

The coalition's proposal focuses on a 15 mile corridor of downtowns and mixed-use neighborhoods that have been identified by coalition members as Priority Development Areas (PDAs)—places with adopted local plans for sustainable, location-efficient redevelopment that also support the Bay Area's regional vision for an equitable, low carbon future.

The corridor is defined by the East Bay's historic main street—known as International Boulevard in Oakland, East 14<sup>th</sup> Street in San Leandro, and Mission Boulevard in unincorporated Alameda County and Hayward—and five adjacent Bay Area Rapid Transit (BART) stations. It served as a primary road and streetcar route through the East Bay from its urbanization in the 19<sup>th</sup> century until the completion of Interstates 880 and 580 in the late 1950s and continues to be a critical link between Oakland and Hayward. The five BART stations within the target area connect its residents to nearly a million jobs, as well as educational and cultural opportunities throughout the region.<sup>1</sup> To complement BART, the region's first Bus Rapid Transit (BRT) route will begin service in the corridor in 2017.

Historically, the corridor was an employment center with abundant industrial and commercial jobs, particularly for people of color.<sup>2</sup> Major corporations including Magnavox, General Electric and Montgomery Ward operated large scale divisions beginning in the 1920s through the mid-1970s. A significant portion of the Bay Area's African American and Latino residents formed communities in the corridor. As the target area's neighborhoods experienced suburban flight and industry moved away, jobs dwindled and the area began to fall into significant decline.<sup>3</sup> Accompanying this decline was a spike in crime, blight and the abandonment of commercial and industrial buildings and parcels—many of which are known or suspected brownfields.

Today the corridor is characterized by vacant lots, abandoned industrial facilities, gas stations, and dilapidated structures occupied by auto-repair shops, liquor stores, nail salons, and storefront churches. The current economic recovery has provided very limited benefits to the area while creating displacement pressure on corridor residents and businesses.<sup>4</sup> Environmental contamination—both documented and perceived—continues to pose an obstacle to community health and economic development.

**1.a.ii. Demographic Information:** As Table 1 illustrates, sensitive populations with greater susceptibility to many of the contaminants and cumulative environmental issues in the target area make up a disproportionate share of its residents—including minorities, the unemployed, the poor, children, and very young children. The target area also has high concentrations of populations with multiple risk factors that can exacerbate exposure to contaminants and cumulative issues, including children living in poverty (triple the rate in Alameda County and nearly double the state and national

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<sup>1</sup> Association of Bay Area Governments. (2013). *Plan Bay Area: Final Forecast of Jobs, Population and Housing*.

<sup>2</sup> Johnson, Marilyn S. (1993). *The Second Gold Rush: Oakland and the East Bay in World War II*.

<sup>3</sup> Self, Robert O. (2003). *American Babylon: race and the struggle for postwar Oakland*.

<sup>4</sup> Zuk, Miriam. (2015). *Regional Early Warning System for Displacement*. (Data on Target Area: <http://www.urbandisplacement.org/research>, accessed November 30, 2015)

## East Bay Coalition Brownfields Assessment Grant Application

rate), and the percentage of new single mothers in poverty (more than double the county rate and a well above the state rate).<sup>5</sup>

**Table 1. Demographic Information**

	Target Area	Remainder of Target Area Jurisdictions (portion outside target area)	Alameda County	California	United States
Population	191,000	512,000	1,560,000	38,100,000	314,000,000
% Minority	90%	64%	67%	61%	37%
% Unemployed	15%	10%	10%	11%	9%
Poverty Rate	22%	8%	9%	16%	16%
% Children (under 18)	27%	20%	22%	24%	23%
% Children in Poverty (under 18)	9%	3%	3%	5%	5%
% Very Young Children (under 5)	8%	6%	5%	7%	6%
Single mothers in poverty as % of women that gave birth in past year	24%	12%	10%	16%	18%
% Senior Citizens (over 65)	9%	14%	12%	12%	14%
Median HH Income	\$42,826	\$76,550	\$ 73,775	\$ 61,489	\$ 53,482

Source for all data: 2009-2014 American Community Survey (ACS) (numbers rounded)

**1.a.iii. Description of Brownfields:** Suspected and known brownfields are present throughout the corridor, located directly adjacent to the homes, schools and parks of the sensitive populations disproportionately represented in its communities. Built before the advent of modern environmental standards, the corridor is a checkerboard of industrial, residential, civic and commercial land uses. Industrial operations that once attracted working families in search of better lives are now sources of contamination, blight and disinvestment that damage the health and welfare of an at-risk population. Oakland's General Electric (GE) transformer assembly plant provided 300 middle wage jobs during its operation between 1927 and 1975. Today, it remains abandoned with no solid plans for reuse, its soils contaminated with polychlorinated biphenyls (PCBs) from coolants and lubricants in electrical equipment.<sup>6</sup> Groundwater contamination from trichloroethylene (TCE) (commonly used to clean metal parts)<sup>7</sup> extends beyond the site, which is surrounded on two sides by neighborhoods. Residents of these neighborhoods, which are in the top 4 percentile statewide for impaired water risk and face elevated levels of toxic releases, have the highest cancer mortality rate in Alameda County—more than 60% above the county as a whole and well above neighborhoods with similar demographic characteristics.<sup>8</sup> These neighborhoods also have elevated incidence of low birth weight—which, like cancer, has been identified as a potential impact of PCB and TCE exposure, and

<sup>5</sup> 2009-2014 American Community Survey (ACS)

<sup>6</sup> CA DTSC Public Notice, "Approval of Final Remediation Plan, Former General Electric Facility," July 2011

<sup>7</sup> Ibid

<sup>8</sup> California Office of Environmental Health Hazard Assessment *EnviroScreen*, 2015; Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*

## East Bay Coalition Brownfields Assessment Grant Application

which is especially harmful to a community with a high proportion of young children and single mothers in poverty.<sup>9</sup> Between mid-June and mid-December 2015, 485 violent crimes were recorded in a one-mile radius of the site, including 96 robberies and 3 murders.<sup>10</sup>

The GE plant is a microcosm of the impact of brownfields on the corridor; a symbol of disinvestment, poor health, and lost opportunity. It is one of 670 brownfields in the target area identified by the California Department of Toxic Substances Control (DTSC),<sup>11</sup> all of which are located within 1,000 feet of a residential area and many of which share a property line with a residence. 170 of the sites identified by DTSC remain open, including 90 Leaking Underground Storage Tanks (LUST)—primarily former gas and service stations. Frequently identified contaminants at the LUST sites include TPH (particularly benzene) as well as PCBs, TCEs and PCEs—creating soil, groundwater, and indoor air contamination. A wide variety of contaminants have been identified at the other open cleanup sites, reflecting a diversity of historic land uses that available records indicate ranged from heavy manufacturing plants (producing glass containers, plastic, and many other products) to an excavation pit and a bulk petroleum distribution facility. Frequently identified contaminants from these sites include PCE, PCBs and TCEs, with contamination from volatile organic compounds (VOCs), TCA, and lead also found at several locations.<sup>12</sup>

In addition to known brownfields left behind by historic land uses, many businesses operating today in the target area are associated with contaminants. This includes 65 gas stations, 81 laundromats, and 529 manufacturing businesses.<sup>13</sup> Like identified brownfields in the target area, all of these businesses are within 1,000 feet of a residential area, which as noted in *Demographic Information* are made up of a disproportionate share of sensitive populations such as children in poverty.

**1.a.vi. Cumulative Environmental Issues:** Contributing to the risks created by brownfields, one operating and nine non-operating hazardous waste facilities are within one mile or less of the target area, among them an active electronics and universal waste recycling plant and several plating and beverage container companies.<sup>14</sup> The target area is also adjacent Interstate 880, which is used heavily by trucks in route to the Port of Oakland, one of the busiest ports in the country, leading to elevated particulate matter emissions—particularly during commute hours when trucks idle.<sup>15</sup> Exposure is increased by the frequent use of operable windows to ventilate homes and other buildings, as well as the proximity of public spaces such as playgrounds and parks to I-880 and to the target area's other high-pollution roadway, International Blvd/East 14<sup>th</sup> St/Mission Blvd.

Based upon a cumulative analysis of all mobile and stationary sources of pollution, the target area was identified by the Bay Area Air Quality Management District (BAAQMD) as a cumulative impact area, reflecting elevated levels of Toxic Air Contaminants (TAC) and fine particulate matter (PM).<sup>16</sup> BAAQMD also designated the target area a CARE community—a designation used to identify communities with sensitive populations overburdened by air quality and other environmental risks.<sup>17</sup> In addition to these challenges, much of the target area is underserved by grocery stores, has a deficit of parks relative to population compared to other parts of the county, and is more susceptible to the

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<sup>9</sup> Alameda County Public Health Department, *Alameda County Vital Statistics Files 2011-2013*; 2009-2014 ACS

<sup>10</sup> Oakland Police Department and crimemapping.com, accessed 12/13/15

<sup>11</sup> DTSC *Geotracker Database*, accessed 12/14/15

<sup>12</sup> Ibid.

<sup>13</sup> Dunn and Bradstreet NETS data 2014

<sup>14</sup> DTSC *EnviroStor Database*, accessed 12/16/15

<sup>15</sup> Ibid

<sup>16</sup> MTC and ABAG. (2013). *Plan Bay Area Environmental Impact Report*

<sup>17</sup> BAAQMD Community Air Risk Evaluation Program (CARE), <http://www.baaqmd.gov/plans-and-climate/community-air-risk-evaluation-care-program>, accessed 12/16/15

## East Bay Coalition Brownfields Assessment Grant Application

urban heat island effect than other areas.<sup>18</sup>

**1.b. Impacts on Targeted Communities:** Target area residents have dramatically lower health outcomes than residents of adjacent neighborhoods, Alameda County, and California. Many of these negative outcomes are potentially linked to exposure to the contaminants present in target area brownfields—which can take place through direct contact, overland flow dispersion of toxic compounds, wind, groundwater drainage and vapor intrusion—and the cumulative environmental issues in the area. The presence of sensitive populations highlighted above in *Demographic Information* likely exacerbates the impact of these exposures.

The cancer mortality rate, which is a potential effect of exposure to the PCBs and TCE contamination in the target area, ranges from 168 per 10,000 to 230 per 10,000 in the zip codes within the target area, compared to 146 per 10,000 in Alameda County and 131 per 10,000 in California. Asthma hospitalization, potentially linked to exposure to the high levels of PM and TAC in the target area, is 40% above the county and 240% percent above the state for children under 5 and 44% above the county and 350% percent above the state overall. The prevalence of diabetes and obesity are 17% and 28% above county averages, respectively.<sup>19</sup>

Hospitalization from violent assault (which includes murder) is 200% higher in target area zip codes than the county, resulting from a higher crime rate potentially related to blight and lack of access to opportunity. Reflecting the confluence of multiple risk factors, life expectancy at birth in parts of the target area is 70, 10 years below the county average and as many as 29 years below wealthier communities in the county. This ranks 117<sup>th</sup> worldwide, equal to Bangladesh.<sup>20</sup>

In addition to explicit health and safety impacts, vacant brownfields contribute to a land use pattern that does not provide the basic necessities needed by community members such as community centers, grocery stores and parks. The underutilization of the area's land also represents a missed opportunity to provide space for job training, small business incubation, and much-needed housing within walking distance of inexpensive public transit that in less than half an hour reaches the region's major job centers and educational opportunities (and in the process provides an environmentally sustainable commute mode).

### 1.c. Financial Need

**1.c.i. Economic Conditions:** Regional and local funding is not available to conduct the assessments that will be supported by this grant. In 2011, the State of California eliminated Redevelopment Agencies, which had utilized tax increment financing for the acquisition, assessment, remediation, and reuse of blighted properties—including many brownfields. The elimination of Redevelopment resulted in an estimated \$28 million budget shortfall for the City of Oakland in Fiscal Years 2011-12 and 2012-13 alone.<sup>21</sup> In Alameda County, this figure is \$60 million annually, and in Hayward \$5 million annually.<sup>22</sup> The loss of Redevelopment compounded longstanding fiscal crises in coalition jurisdictions, which face rising costs for government services coupled with stagnant sales taxes and local property taxes capped by state law at 1%.

The area's protracted industrial decline, beginning with the closure of major factories in the 1960s and 1970s and compounded by decades of vacancy on the large parcels of land left behind (many of them known or suspected brownfields), has contributed to the persistently high unemployment and

<sup>18</sup> Greenbelt Alliance; UC-Berkeley (2014). *Mapping Climate Change Exposures*

<sup>19</sup> All data in this paragraph: Alameda County Public Health Department, *Alameda County Vital Statistics Files, 2011-2013*

<sup>20</sup> Ibid., US Central Intelligence Agency (2013). *2013 CIA Factbook*.

<sup>21</sup> City of Oakland Press Release, 11/29/11 "Community and Economic Development Agency Dissolved", <http://www2.oaklandnet.com/Government/o/CEDA/index.htm>, accessed 12/18/14

<sup>22</sup> City of Hayward, 2012 *Comprehensive Annual Financial Report* [http://www.hayward-ca.gov/CITY-  
GOVERNMENT/DEPARTMENTS/FINANCE/documents/2012/FY2012\\_Hayward\\_CAIFR.pdf](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2012/FY2012_Hayward_CAIFR.pdf), accessed 12/18/14

## East Bay Coalition Brownfields Assessment Grant Application

poverty rates highlighted in *Demographic Information*. The GE plant closure described above, which cost the area 350 jobs, was part of a broader trend of lost economic opportunity: between 1950 and 1970, Oakland alone lost 10,000 jobs alone, many of them like GE along the International Blvd/East 14<sup>th</sup> Street corridor. The resulting lack of buying power has for decades depressed sales taxes—a critical revenue source for California cities and a potential source of funding for remediation and cleanup. This was exacerbated by the closure of major department stores along the corridor, including a 9 story Montgomery Ward in 1989 in Oakland and Mervyn's 340,000 flagship store and headquarters in Hayward. The area's industrial decline also led to dramatically lower home values and rental rates, as highlighted in *Economic Effects of Brownfields* below.

Together, these factors severely limit the ability of any of the Coalition members to address the shared brownfields challenge alone. The formation of the Coalition and its collaborative proposal reflect the need to work together to overcome an economic and fiscal obstacle that no member can tackle individually.

**1.c.ii. Economic Effects of Brownfields:** The prevalence of vacant and underutilized parcels in the target area contributes to a lack of economic activity, reducing potential demand for local businesses, dampening sales and property taxes while also reducing opportunities for community-building and visual surveillance—potentially facilitating the hubs of criminal activity on the corridor.<sup>23</sup> Data collected by the US Postal service indicates that vacancies at business addresses are 24% higher in target area Census Block groups with clusters of four or more brownfields than elsewhere in Alameda County.<sup>24</sup>

These conditions have created a negative perception among businesses and potential investors that are reflected in rents and property values. A comparison on Loopnet.com in December 2015 found that the average price of retail space along the corridor averages \$19/square foot; in contrast, rents along three retail corridors in surrounding areas averaged \$26/sf (Castro Valley Blvd), \$34/sf (Alameda Park St), and \$54/s (Oakland Lakeshore/Grand).<sup>25</sup> According to the 2014 American Community Survey, the median residential rent in the corridor is \$1,150—17% below the rent in other parts of coalition jurisdictions and 20% below Alameda County. Negative perceptions are also reflected in home values, which are a proxy for property taxes: At \$250,000, the median home value in the target area is \$200,000 below neighborhoods elsewhere in coalition jurisdictions and more than \$230,000 below Alameda County.<sup>26</sup> These figures underscore the opportunity costs created by underutilized known or suspected brownfields. While no comprehensive analysis has been completed of the economic impact of blight and brownfields on the corridor, if the median value of the corridor's 28,000 homes were equal to the County, these homes would generate approximately \$90 million each year in additional property taxes.<sup>27</sup>

Combined with other risk factors, the preponderance of vacant lots and blight created by known and suspected brownfields has reduced access to opportunity for local residents by limiting the number of potential jobs and local services within target area communities, contributing to the disproportionately high unemployment and poverty rates illustrated in *Table 1*.

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<sup>23</sup> For example, the northern part of the corridor is known as a hub for child trafficking in the western United States: <http://www.sfgate.com/crime/article/How-girls-fall-into-clutches-of-pimps-4705407.php>, accessed 12/1/15.

<sup>24</sup> HUD, 2014, *HUD Aggregated USPS Administrative Data On Address Vacancies*; Calculations by ABAG.

<sup>25</sup> Loopnet.com: <http://www.loopnet.com/xNet/MainSite/Listing/Search/SearchResults.aspx#/Retail/For-Lease/cIARYCSBAQIBDYVTQG2U20JAtnRyAThQkABAAACoB4xcwAEAAngphV7A>, accessed 12/1/15. Note that Loopnet is a site to advertise properties, not a comprehensive data source.

<sup>26</sup> 2009-2014 American Community Survey.

<sup>27</sup> ACS 2009-2014; Assumes a typical 1.2% property tax rate in the target area (including locally imposed and voter adopted taxes)

## 2. PROJECT DESCRIPTION AND FEASIBILITY OF SUCCESS

### 2.a. Project Description, Project Timing and Site Selection

**2.a.i. Project Description:** This grant will fund 20 Phase I and 6 Phase II environmental site assessments (ESAs) of high-impact suspected brownfields, implementing an integrated regional and local strategy for environmental, social and economic sustainability. In 2013, Bay Area elected officials adopted Plan Bay Area—a blueprint for growth and transportation investment that achieves the State of California’s GHG emissions reduction target for the region. The foundation of Plan Bay Area’s sustainable growth strategy is a network of Priority Development Areas (PDAs)—transit-rich places planned by cities for mixed-income housing, commercial development, and local services. The PDAs that make up the target area are expected to add 44,000 new housing units and 58,000 new jobs by 2040.<sup>28</sup> Land use plans recently adopted by coalition members for these PDAs set the stage for implementation by identifying opportunity sites for a mix of housing, employment, local services, and public spaces to create dense walkable communities. These sites are typically vacant, large enough for significant redevelopment that fulfills a community vision, and in need of assessment to confirm or remove suspicion of the presence of contaminants.

Because a comprehensive environmental review was conducted as part of each local PDA plan, projects on opportunity sites are exempt from most aspects of the entitlement process—reducing much of the uncertainty associated with development in disinvested areas. However, parcel-level analysis of potential contamination has still not been completed on most sites. Combined with longstanding concerns about known and suspected brownfields, the uncertainty surrounding many sites presents a barrier to both private and public investment. The perceived complexity and potential delays involved in conducting assessments deter investors from taking on the additional cost and instead investing in an area with fewer perceived issues. The ESAs funded by this grant will fill this gap, setting the stage for catalyst projects that align with local and regional plans, as well as state and federal sustainability principles.

The Memorandum of Agreement (MOA) established between coalition members at the outset of the grant will create a framework for defining site selection criteria, conducting site selection, creating a community engagement plan, and selecting consultants to perform ESAs. A minimum of four sites will be assessed in each jurisdiction. To prime the assessed sites for reuse, the coalition will conduct preliminary schematic design with engagement from Bay Area LISC, which has funded numerous reuse projects, set the stage for a more detailed cleanup plan.

The activities funded by this grant will position the high-impact sites selected by coalition members to acquire and leverage funding sources such as the state of California’s Affordable Housing and Sustainable Communities program, the Golden State Acquisition Fund, the Bay Area Transit-Oriented Affordable Housing fund and the DTSC revolving loan fund, as well as to forge public-private partnerships and to take advantage of the influx of private capital seeking development sites in the Bay Area.

**Outputs:** 20 Phase I and 6 Phase II ESAs; 6 Preliminary Schematic Site Designs; Priority Sites Inventory; at least 7 Community Meetings

**Outcomes:** \$230-\$560 Million in investment; 2,050-4,100 Jobs; \$7-\$14 Million in ongoing revenues; Reduced community exposure to contaminants; Improved health outcomes

**2.a.ii. Project Timing:** The project is anticipated to commence in spring 2016 and close in spring 2019. Within a month of the grant award, the coalition members will sign a Memorandum of Agreement and the Association of Bay Area Governments (the project sponsor) will complete a Work Plan and schedule that will be included in the Cooperative Agreement with EPA. Project tasks and milestones established in the Work Plan will be tracked on a weekly basis and reported to EPA

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<sup>28</sup> ABAG and MTC (2013). *Plan Bay Area Final Forecast of Jobs, Population and Housing*

## East Bay Coalition Brownfields Assessment Grant Application

as part of the Quarterly Report. The report will identify percentage completion of each task and progress toward milestones. In the case of delays, ABAG will provide EPA's project manager with an explanation for the delay and identify corrective action.

ABAG will coordinate site selection, contractor selection and oversight, public outreach, site access, and development of reuse strategy, working with Coalition Members through the process formalized in the MOA.

**Table 2. Project Schedule**

	Q2 2016	Q3 2016	Q4 2016	Q1 2017	Q2 2017	Q3 2017	Q4 2017	Q1 2018	Q2 2018
<u>Notice of Award</u>	x								
<u>MOA Adoption</u>	x								
<u>Issue RFP &amp; Consultant Selection</u>		x							
<u>Contract Award</u>									
<u>Site Selection</u>		x	x	x					
<u>Public Engagement</u>	x	x		x			x		x
<u>Assessments</u>					x	x	x	x	
<u>Schematic Designs</u>							x	x	x

**2.a.iii. Site Selection:** Through the MOA, coalition members will establish a governance structure for establishing site selection criteria and for selecting sites. Detailed criteria will expand upon several general principles, prioritizing parcels that are: identified as opportunity sites with significant redevelopment potential in locally adopted plans; within 1/2 mile of frequent transit service; and meet EPA Brownfield site eligibility guidelines. Each coalition member jurisdiction will submit a set of preliminary priority sites from which a final set will be identified utilizing the process established by the coalition. A minimum of four ESAs will be performed in each local coalition member's jurisdiction.

Coalition members will pursue securing Site Access Agreements and once agreements are in place, public and privately-owned sites will be assessed. If access cannot be obtained for a blighted vacant priority site, coalition members may consider utilizing state laws such as the Gatto Act to gain access, or another site on the priority list may be assessed instead. Assessment sites are expected to be evenly divided between those with suspected petroleum contamination and those with suspected hazardous substances contamination.

## 2.b. Task Description and Budget Table

**2.b.i. Task Description:** With the exception of reporting, project tasks will be performed in collaboration with local jurisdiction and community based partners. ABAG staff will convene a series of meetings with local jurisdiction partners to assist with the process of developing a list of sites. Sites under consideration for inclusion on the list will first be screened using EPA site eligibility criteria and vetted with the California Department of Toxic Substances Control (DTSC). While the list is under development, we will convene community organization partners and begin the community engagement process. Regular meetings with local jurisdiction and community organization partners will be convened for the duration of the project.

### Task 1 – Partner Engagement and Site Identification

**\$35,472**

Local jurisdiction partners will develop an initial list of potential sites. Sites will be evaluated using the criteria and process established by the Coalition following adoption of the MOA. The list of potential sites will be vetted using EPA guidelines and in consultation with the community

## East Bay Coalition Brownfields Assessment Grant Application

organization partners, resulting in a final list of sites and site access as discussed in *Site Selection*.

Outputs: MOA, Priority sites inventory; Site assessment list

Staff time: Senior Regional Planner: 11.1 hours/month @88.68/hour for 36 months = \$35,472

Total: \$35,472

Cost Basis (Petroleum Products): \$17,736

Cost Basis (Hazardous Substances): \$17,736

### **Task 2 – Community Engagement**

**\$34,318**

Community engagement efforts are an integral component of the MOA and will include community communication materials, regular community briefings, project web site, and messaging developed by local jurisdictions and community based organization partners. This effort will be coordinated by ABAG's Communication Specialist in collaboration with community organization partners resulting in a community engagement plan, at least five community meetings and two focus group meetings.

Outputs: Community engagement plan, Minimum five community meetings; Minimum two focus group meetings

Cost Basis

Pass-through: Capacity building for Community Based Organizations = \$5,000

Supplies: printed material, website = \$4,698

Staff time: Communication Specialist: 5.5 hours/month @\$98.10/hour for 36 months = \$19,620

Total: \$34,318

Cost Basis (Petroleum Products): \$17,159

Cost Basis (Hazardous Substances): \$17,159

### **Task 3 – Phase I and Phase II Assessments**

**\$460,000**

The partnership will conduct a thorough consultant selection process to identify the most appropriate firm for this project. This portion of the project includes consultants performing Phase I and II Environmental Assessments as well as Quality Assurance Project Plans, Health and Safety Plans, Sampling and Analysis Plans, and other related reports as warranted.

Outputs: 20 Phase I ESAs; 6 Phase II ESAs

Cost Basis

Contractual: 20 Phase I ESAs @ \$8,000 per Phase I ESA = \$160,000

Contractual: 6 Phase II ESAs @ 50,000 per Phase II ESA = \$300,000

Total: \$460,000

Cost Basis (Petroleum Products): \$230,000

Cost Basis (Hazardous Substances): \$230,000

### **Task 4 –Preliminary Schematic Designs**

**\$13,302**

As land reuse is one of the primary goals of the project, ABAG staff and the project partnership will produce schematic designs for up to five sites that are deemed locations with high redevelopment potential and aligned with adopted local plans. Bay Area LISC will be consulted regarding feasibility.

Outputs: 6 Preliminary Schematic Designs

Cost Basis

Staff time: Regional Planner: 12.5 hours/month @88.68/hour for 12 months = \$13,302

Total: \$13,302

Cost Basis (Petroleum Products): \$6,651

Cost Basis (Hazardous Substances): \$6,651

### **Task 5 - Project Management and Reporting**

**\$56,908**

This task includes staff time for general oversight of the project ACRES and general reporting requirements for the grant award. ABAG project staff will hold weekly project meetings to monitor progress, identify and develop strategies to resolve issues that arise, and generate quarterly reports.

Outputs: Quarterly Reports

Cost Basis

## East Bay Coalition Brownfields Assessment Grant Application

Staff time: Senior Regional Planner: 2.7 hours/month @\$110.12/ hour for 36 months = \$15,416

Senior Regional Planner: 5.5 hours/month@ \$88.68/hour for 36 months = \$17,736

Finance Specialist: 2.2 hours/month @ \$76.35/hour for 36 months = \$6,108

Indirect costs of financial and performance reporting: = \$17,648

Total: \$56,908

Cost Basis (Petroleum Products): \$28,454

Cost Basis (Hazardous Substances): \$28,454

**2.b.ii. Budget Table:** Separate budget tables are included for the hazardous substance and petroleum work that distinguish hazardous substances related tasks from petroleum related tasks.

**Table 3. Hazardous Substance Budget**

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	\$17,736	\$9,810		\$6,651	\$19,630	\$53,827
Indirect Cost					\$8,824	\$8,824
Travel		\$100				\$100
Website		\$475				\$475
Printing		\$630				\$630
Contractual			\$230,000			\$230,000
CBO Support		\$5,000				\$5,000
Meetings		\$1,144				\$1,144
Total	\$17,736	\$17,159	\$230,000	\$6,651	\$28,454	\$300,000

**Table 4. Petroleum Products Budget**

Budget Categories	Task 1	Task 2	Task 3	Task 4	Task 5	Total
Personnel	\$17,736	\$9,810		\$6,651	\$19,630	\$53,827
Indirect Cost					\$8,824	\$8,824
Travel		\$100				\$100
Website		\$475				\$475
Printing		\$630				\$630
Contractual			\$230,000			\$230,000
CBO Support		\$5,000				\$5,000
Meetings		\$1,144				\$1,144
Total	\$17,736	\$17,159	\$230,000	\$6,651	\$28,454	\$300,000

**2.c. Ability to Leverage:** ABAG is a regional planning agency that enables its members to develop sustainable projects. The coalition members have resources and leveraging opportunities to bring projects along this corridor to redevelopment. The coalition proposal is designed to position projects in corridor opportunity sites to attract investment that leverages existing and future funding sources, providing a substantial return on investment for the ESAs funded by the EPA.

Existing sources for cleanup and redevelopment include: the California DTSC Revolving Loan Fund, which provides up to \$2.5M in low-cost financing for cleanup to facilitate projects similar to those anticipated on corridor opportunity sites; the California Water Resources Board's \$200M Storm Water Grant Program, which can be used to fund new public spaces such as parks and community gardens identified on brownfield sites in community plans; the \$400M state Affordable Housing and Sustainable Communities fund, which provides grants for mixed-income housing, active

## East Bay Coalition Brownfields Assessment Grant Application

transportation and green infrastructure in PDAs (including more than \$7M won by Coalition Members in 2015); more than \$100M in annual Low-Income Housing Tax Credits available to Bay Area Community Development Finance Institutions (such as community partner Bay Area LISC) to support affordable housing and community facilities; the \$60M Transit Oriented Affordable Housing (TOAH) fund administered by MTC in partnership with ABAG. In addition to these existing sources, a range of potential new sources are under discussion, such as a Bay Area regional housing bond (potentially \$500M annually) and a state housing bond similar to Proposition 1C (\$3B), which was used successfully to support multiple brownfields reuse projects.

Local government partners may also choose to utilize California's Gatto Act to recover cleanup costs in cases where assessments reveal contamination for which there is a viable responsible party. The City of Oakland, for example, previously negotiated a \$700,000 settlement from Chevron Corporation for cleanup of contamination characterized under a prior US EPA Assessment Grant for Oakland's Uptown Area.

In future years, coalition members may also establish Enhanced Infrastructure Finance Districts (EIFD), which would also become a source of leveraging. Enabled by a recent state law, EIFDs permit limited tax increment financing to fund infrastructure as well as remediation in areas (such as target area PDAs) consistent with regional Sustainable Communities Strategies (i.e. Plan Bay Area).

### 3 COMMUNITY ENGAGEMENT AND PARTNERSHIPS

#### 3.a. Plan for Involving Targeted Community & Other Stakeholders; and Communicating Project Outcomes

**3.a.i. Community Involvement Plan:** The coalition's proposal leverages deep relationships with community stakeholders built during recent local and regional initiatives including Plan Bay Area, the HUD-funded Regional Prosperity Strategy, and recently adopted plans for the corridor's Priority Development Areas. After completing the MOA, coalition members will work with established partner community organizations to develop a community engagement plan tailored to the needs of the corridor's communities. We anticipate the community engagement plan will include the following:

- Convene five public meetings to: share information including project overview, composition and goals of the coalition, desired project outcomes, and timeline; receive input and feedback from community groups, property owners, local businesses and residents about site selection and land reuse planning; and share outcomes and discuss next steps
- Hold focus group meetings with interested members of the community to receive detailed input into project goals, site selection, and reuse planning
- Develop printed and online material on the overall project, opportunities for engagement, FSAs, and reuse planning; disseminate brochures in heavily traveled places along the corridor where they will be highly visible and accessible

**3.a.ii. Communicating progress:** The coalition will utilize methods that have proven successful in past regional and local planning initiatives. We are confident these methods will prove useful for this project but are continuously seeking best practices and open to modifying our approach if more effective methods are discovered. We anticipate that these will include:

- Establish community assistance telephone line to respond to inquiries from interested parties and residents; this will be particularly helpful for those without access to internet
- Create a web site that describes short and long term plans for the corridor, provides status of projects, and updates on overall progress (with translation as appropriate)

## East Bay Coalition Brownfields Assessment Grant Application

### 3.b. Partnerships with Government Agencies

**3.b.i. Local/State Environmental Authority:** The California Department of Toxic Substances Control (DTSC) oversees the investigation and remediation of Brownfield sites in the state. The target area is located in DTSC's Region IX Brownfield program. DTSC will be available to consult on the grant and provide input on site selection and other key decisions, as well as provide guidance on opportunities obtain future cleanup funding through sources such as its voluntary cleanup program and revolving loan fund.

**3.b.ii. Other relevant Governmental Partnerships:** ABAG is the sister organization to the Metropolitan Transportation Commission, which oversees regional transportation project funding. Together, ABAG and MTC are responsible for developing and implementing Plan Bay Area. In addition, ABAG maintains strong longstanding relationships with other regional planning and regulatory organizations including the San Francisco Regional Water Quality Control Board, Bay Area Air Quality Management District, and the County of Alameda's Department of Health Services and Public Health Department.

### 3.c. Partnerships with Community Organizations

**3.c.i. Community Organization Description and Role:** Community organization partners for this project include organizations that participated in the development of Plan Bay Area and community plans in coalition jurisdictions. ABAG and local coalition members have long standing relationships with many of these organizations and has successfully worked with them on many issues including housing, land use and social justice.

These organizations serve large communities along the corridor and focus on a number of issues including housing, open space and social equity. In addition to the organizations named, we will build on relationships and capacity developed through the HUD Sustainable Communities Grant. The coalition's goal is to design the work so that community organizations can maximize their effectiveness. To ensure community participation in this project, the budget includes funds to increase capacity and support these vital organizations.

Within 3 months of establishment of the MOA, ABAG will convene the community partners to provide a project overview, develop the community engagement plan, and solicit input about issues relevant to their areas of expertise. With assistance from the Coalition, community organization partners will organize and conduct public meetings in the portions of the corridor in which they have an established presence.

**OCCUR** is a community organization that brings together East Bay residents, merchants and governments to stimulate the economic development potential of emerging communities; it will focus on outreach and meeting facilitation. The **Unity Council** is a non-profit community development corporation with expertise in mixed-use development and building health communities; the Unity Council will provide insight into the development process as well as conduct outreach. **TRANSFORM** is a sustainable transportation organization active across the Bay Area and California, with a particular focus on the East Bay; TRANSFORM will focus on meeting facilitation and technical assistance around Transit-Oriented Development. **Greenbelt Alliance** is a Bay Area non-profit with expertise in meeting facilitation and smart growth policy; it will focus on meeting facilitation and providing technical assistance around conservation. **Bay Area LISC** is a community development finance institution (CDFI) responsible for distributing federal low-income tax credits and providing comprehensive place-based support to low income communities; LISC, which has built nearly 12,000 homes and apartments and over 1.4M square feet of community-serving development in the East Bay and larger Bay Area, will provide insight into funding strategies for projects on opportunity sites.

#### 4. PROJECT BENEFITS

**4.a.i. Health and/or Welfare Benefits:** The ESAs and reuse strategies funded by this grant are an important step in addressing the severe health impacts discussed in *Community Need*. Assessment followed by cleanup and redevelopment will help eliminate the risks of exposure to site contaminants, thereby protecting nearby and sensitive populations such as children and young single mothers in poverty. Reducing the population's exposure to contaminants will have the long term effect of potentially reducing cancer rates, increasing life expectancy and improving quality of life while also reducing risks to workers involved in future construction projects on these sites. Assessments that remove suspicions of contamination would provide the additional level of certainty required for public and private investment, allowing projects that implement community priorities to move ahead.

As local PDA plans recommend land uses that serve the existing community, including parks and affordable housing, the redevelopment of opportunity sites facilitated by this grant will combine health, welfare and economic benefits. In addition to creating job opportunities and reducing blight, many projects will provide services that address the immediate challenges facing corridor residents. Health and wellness centers, for example, are integrated into recent mixed-use housing developments in the area such as the Lion Creek Crossings in Oakland, a Phoenix Award winner. Other recent projects, such as the REACH Ashland Youth Center, a park with youth services, provide comprehensive wrap-around services including literacy, job training, and health. Bringing new homes and businesses into target area will also help address disproportionately high levels of obesity and diabetes by increasing the number of local services, such as grocery stores, that can be reached on foot while also supporting higher levels of transit service. Consistent with local plans, projects on opportunity sites will provide easements for new pedestrian and bicycle connections, improving opportunities for active transportation and increasing greenspace. By increasing the use of sustainable modes of transportation, reuse will also help reduce emissions associated with asthma such as TAC and PM.

**4.a.ii. Environmental Benefits:** The ESAs funded by this grant will facilitate the removal of an array of contaminants that have for years damaged the soil, groundwater, stormwater, and indoor air quality of the target area such as PCBs, TCE, PCE, and TPH. In addition to addressing community environmental quality, contaminant removal will reduce risks to the health of the San Francisco Estuary from contaminated stormwater and the East Bay's water supply from groundwater contamination. The ESAs will also provide clarity on the relative risk of different sites, allowing future cleanup efforts to focus on locations that pose the greatest risks.

As development in the target area advances—spurred by the brownfield revitalization that this project and major transit investments will support—transportation options will expand and travel along the corridor will shift toward more sustainable modes. This will help reduce the pollution associated with auto travel, reducing concentrations of PM and TAC due to growing congestion on I-880. The addition of urban greening as amenities and required mitigation measures in new projects will also play an important role in comprehensively addressing air quality and other potential environmental and health risks. Parks, for example, will mitigate air quality impacts by adding trees that filter airborne contaminants while also mitigating soil and groundwater contamination through stormwater features such as bioswales that remove silt and pollution from surface runoff water.

#### 4.b. Environmental Benefits from Infrastructure/Sustainable Reuse

**4.b.i. Policies, Planning and Other Tools:** The project will leverage a host of local and regional policies, tools and infrastructure investments. Community plans adopted across the target area provide zoning, anti-displacement and environmental mitigation measures that together support the development of affordable and mixed-income housing, retention of local residents, and increased

## East Bay Coalition Brownfields Assessment Grant Application

transportation choices, and healthier. Green building programs in each of the coalition partner cities will help insure that redevelopment in the corridor is energy-efficient and promotes human health.

Supporting these policy tools is: regional technical assistance on placemaking, active transportation, and parking management provided by ABAG and the Metropolitan Transportation Commission through the regional PDA planning program; forthcoming Healthy Communities guidelines from the Bay Area Air Quality Management District; and stormwater best management practices disseminated by the SF Estuary Partnership.

Redevelopment in the target area spurred by the grant will leverage major federal, state and regional transit investments, including: the \$200 million East Bay BRT, the first full Bus Rapid Transit route in the Bay Area; more than \$1B in improvements to BART to increase frequency, capacity and safety; and multiple complete streets projects that support active transportation funded by Plan Bay 2013 regional transportation funding.

**4.b.ii. Integrating Equitable Development or Livability Principles:** The project will implement HUD-DOT-EPA Livability Principles as well as the equitable development policies integrated in the adopted local and regional plans of coalition members. To achieve HUD-DOT-EPA Livability Principles, it will **provide more transportation choices** by focusing mixed-use development at transit-supportive densities within walking distance of frequent, affordable public transit (BART and East Bay BRT), improving the public realm and travel conditions for healthy, active transportation such as walking and bicycling; **promote equitable, affordable housing** by setting the stage for projects that implement community plans calling for mixed-income housing that serves all age groups and backgrounds, addresses displacement pressures that are increasingly pushing low-income Bay Area families to move to outer areas of the region with higher transportation costs, and building homes in places with strong green building codes; **enhance economic competitiveness** by reducing the blight in the target area to make it more attractive to investors and small businesses, enlarging the customer base for local shops and services, setting the stage for major job-producing projects envisioned in local plans, and increasing access to transit that reaches the region's major employment and educational opportunities within ½ hour ; **support existing communities** by facilitating land recycling that will revitalize the corridor's communities, make efficient use of existing infrastructure, and focusing development on opportunity sites identified in plans driven by existing communities; **coordinate and leverage federal policies and investment** by taking an integrated implementation approach that aligns with recent federal investments including East Bay BART (\$81M FTA Small Starts Grant), eight pilot projects in the target area to support equitable transit-oriented development and job creation (through the Bay Area's \$5M HUD Sustainable Communities Grant), and hundreds of energy retrofits and renewable energy installations funded through Renewable Energy and Consumer Energy Efficiency Tax Credits; and **value communities and neighborhoods** by facilitating future development that includes much-needed public space, public realm improvements, and health care and other supportive services currently not adequately provided—improving community health, safety and walkability.

The project will also implement Plan Bay Area policy to increase community stability and support affordable housing in transit-rich.<sup>29</sup> By helping build the mixed-income projects identified in local plans for opportunity sites, it implements anti-displacement policies in community plans for target area neighborhoods, such as the International Blvd TOD Plan's policy to provide equitable housing choices that leverage East Bay BRT stops<sup>30</sup> and the Ashland/Cherryland Business District Specific

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<sup>29</sup> ABAG and MTC (2013), *Plan Bay Area*

<sup>30</sup> City of Oakland (2011). *International Blvd TOD Plan*

## East Bay Coalition Brownfields Assessment Grant Application

Plan's policy to reinforce the area's cultural diversity by promoting the area as a cultural and economy center.<sup>31</sup>

### 4.c Economic and Community Benefits

**4.c.i. *Economic and Other Benefits:*** Completion of these assessments will build a pipeline of mixed-use transit-oriented projects in locally identified opportunity sites along the corridor, positioning these struggling neighborhoods to take advantage of private investment and new local, state and regional funding. In addition to a growing pool of private real estate investment, new competitive public funding sources such as California's Affordable Housing and Sustainable Communities (AHSC) program (which uses the proceeds of Cap and Trade auctions) have emerged to support affordable housing and active transportation. The target area is among the most competitive in the state for this funding as a result of its demographic and environmental challenges; in the fund's first year alone, the corridor received \$13 million in funding which will support construction of 220 units, leveraging \$60 million in additional funds. The fund more than triples in 2016 and is expected to grow further in future years, increasing the timeliness of completing ESAs. The anticipated economic benefit of redevelopment facilitated by this grant is estimated at between \$230 million to \$560 million in immediate benefits and between \$7 million to \$14 million in ongoing annual local government revenue—enough to fund 35 to 70 mid-level police officers. Job creation is estimated at between 1,600 to 3,200 immediate jobs and between 450 and 900 ongoing positions supported by the redevelopment. One to two thousand new mixed-income homes are expected, as well as commercial development, community services and retail.<sup>32</sup> A 1% increase in the value of existing homes in the corridor spurred by reinvestment would create approximately \$10 million in additional property taxes per year.

**4.c.ii: *Job Creation Potential: Partnerships with Workforce Development Programs:*** The Coalition will identify a process for integrating workforce development programs into the assessment, cleanup and redevelopment of sites for which ESAs are conducted. This will involve consulting with and identifying partners such as the Alameda County Workforce Investment Board (WIB) and recent EPA Environmental Workforce Development and Job Training Grantees in Oakland and Richmond. In the redevelopment process, local first source hiring policies would leverage workforce development programs as well.

## 5 PROGRAMMATIC CAPABILITY AND PAST PERFORMANCE

**5.a. *Programmatic Capability:*** ABAG is the Council of Governments for the San Francisco Bay Area and is well qualified to undertake the role of administering the Brownfields Coalition Assessment grant. As the designated regional planning agency for the Bay Area, ABAG has a long standing history of successfully tackling complex regional issues such as housing, hazard mitigation, resilience, economic development, regional land use, and the conservation. The staff that will administer the grant are directed by the Executive Director, the Finance Director and Planning Director. **JoAnna Bullock** is a Senior Planner and Grant Administrator; she will oversee the overall project ensuring that coalition partnerships, community engagement and site assessments are managed and projected outcomes are achieved. She has 30 years of project management experience and expertise in grant management, environmental issues including hazardous waste sites and community engagement. **Mark Shorett** is a Senior Regional Planner; he will lead day to day

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<sup>31</sup> County of Alameda (2014).

<sup>32</sup> Calculations in this paragraph based upon National Association of Homebuilders *Economic Impact of Home Building in a Typical Local Area* (2015), assuming between 10 and 20 100-unit multifamily housing projects as a result of redevelopment, consistent with a parcel size of 2 acres at 50 du/acre per local zoning. Similarly sized projects in the area include the Marea Alta apartments and Fruitvale Transit Village.

## East Bay Coalition Brownfields Assessment Grant Application

engagement with coalition members and community partners. Currently managing PDA Implementation and the East Bay Corridor Initiative, he has twelve years of experience in project management, redevelopment, urban design (including schematic architectural and site design), and economic development.

Through a consensus process established in the MOA, ABAG and other coalition members will hire contractors with the expertise required to conduct the ESAs involved in completing the grant. All procurements will follow EPA requirements.

**5.b. Audit Findings:** ABAG's most recent audit did not disclose any significant deficiencies, or material weaknesses or instances of noncompliance material to the basic financial statements. ABAG has implemented procedures to ensure compliance with all reporting requirements of federal grants and maintain evidence of submission accordingly.

### **5.c. Past Performance and Accomplishments**

*5.c.i. Currently or Has Ever Received an EPA Brownfields Grant (N/A)*

**5.c.ii. Has Not Received an EPA Brownfields Grant but has Received Other Federal or Non-Federal Assistance Agreements:**

**Purpose:** ABAG's Resilience Program has received five grant awards from the US Geological Survey (USGS) since 2010 (a total of \$412, 087) to advance hazard mitigation and recovery efforts in the region including: "Using Risk Communication Research for Improved Integration of Hazard, Risk, and Mitigation Information into ABAG's Bay Area Earthquake Website" (2010, \$80,000); "A Sub-Regional Review of Earthquake-related Hazards in the San Francisco Bay Area" (2012, \$80,000); "Bay Area Population and Earthquake Risk" (2013, \$93,000); "Local Government Resilience Toolkit" (2014, \$90,816); "Bay Area Housing Risk Communication" (2015, \$68,271). ABAG also received a Smart Growth Implementation Assistance grant from the Environmental Protection Agency (EPA)'s Smart Growth Program (2014, \$93,000), entitled Creating Safe, Smart Growth Strategies for the San Francisco Bay Area.

**Accomplishments:** ABAG utilized 2010 and 2012 USGS grants to redesign its natural hazards resilience website and to improve overall communication of risk and distribute mitigation strategies to local governments and the general public. The 2013 USGS grant enabled ABAG to assess the overlapping risks of disaster-vulnerable housing types, vulnerable populations, and areas subject to earthquakes and current and future flooding; this effort culminated in a suite of strategies for local governments for housing and community resilience. ABAG utilized a 2014 grant to refine a selection of these strategies to assist local governments in adopting mitigation and adaptation actions such as soft-story ordinances. A 2015 grant is enabling ABAG to more accurately model housing loss during major disasters and to improve tools to assist residents in retrofitting their homes and preparing for disasters.

The EPA Smart Growth Implementation Assistance grant leveraged the USGS 2013 grant to develop responsive, regionally-appropriate strategies to address the housing and vulnerable population risks identified in the project for both existing and future development.

**2.Compliance with Grant Requirements:** Our staff worked cooperatively with USGS; tasks were performed according to work plans, work products were delivered on schedule, terms and conditions of past grants were strictly adhered to, all reporting requirements were met, and the grants were properly closed. Staff worked closely with USGS, meeting monthly to develop the deliverable and ensure that the schedule was met.



## **ATTACHMENT A**

### **Letter from California Department of Toxic Substances Control**



**Matthew Rodriguez**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

**Barbara A. Lee, Director**  
700 Heinz Avenue  
Berkeley, California 94710-2721



**Edmund G. Brown Jr.**  
Governor

**November 20, 2015**

**Ms. Noemi Emeric-Ford**  
Site Assessment Manager  
Brownfields and Site Assessment Section  
USEPA Region 9  
600 Wilshire Boulevard  
Los Angeles, California 90017-3212

**Dear Ms. Emeric-Ford:**

The California Department of Toxic Substances Control (DTSC) has lead regulatory responsibility for investigating and remediating hazardous substances release sites in California. DTSC fully supports the Association of Bay Area Governments (ABAG) grant application for a \$600,000 (\$300,000 for hazardous substances and \$300,000 for petroleum) Community-wide U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County. ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, Hayward and Alameda County.

The coalition proposes to use the Community-Wide Assessment Grant, to assess sites identified by the local jurisdictions based on previous land use and location. Assessments would focus on areas within low-income neighborhoods that have been disproportionately impacted by pollutants and contamination. These Brownfields funds would help advance the growth of housing, local businesses and services within these communities.

**We appreciate the opportunity to voice our support for this crucial funding.**

Ms. Emeric-Ford  
November 20, 2015  
Page Page 2 of 2

Please contact me at (510) 540-3833 or [janet.naito@dtsc.ca.gov](mailto:janet.naito@dtsc.ca.gov) if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Naito".

Janet Naito, Branch Chief  
Berkeley Cleanup Operations Branch  
Brownfields and Environmental Restoration Program

cc: JoAnna Bullock (via electronic mail to: [JoAnnaB@abag.ca.gov](mailto:JoAnnaB@abag.ca.gov))  
Association of Bay Area Governments

## **ATTACHMENT B**

### **Memorandum of Agreement**

#### **East Bay Corridor Brownfields Coalition**

# **MEMORANDUM OF AGREEMENT EAST BAY CORRIDOR BROWNFIELDS COALITION**

This Memorandum of Agreement (MOA) is entered into by and between the following participating entities:

Association of Bay Area Governments  
County of Alameda  
City of Hayward  
City of Oakland  
City of San Leandro

## **I. Purpose of the Agreement**

The purpose of this agreement sets out the terms by which the participating entities will work together to implement a Brownfields site identification and assessment program along the East Bay Corridor. This agreement will remain in effect from July 2016 to June 2019 and Senior Regional Planner Mark Shorett will be the key contact for ABAG.

This agreement sets out the terms by which the County of Alameda and the Cities of Oakland and Hayward will meet, make decisions, select sites, hire consultants and work with stakeholders and the communities surrounding the project area.

## **II. Background**

In September 2013, the East Bay Corridors Initiative was formed as an implementation strategy for realizing Plan Bay Area, the region's long range sustainable growth plan. The East Bay Corridor is divided into two segments: the Oakland-Union City Corridor and the San Pablo Corridor. This agreement concerns a significant portion of the Oakland-Union City segment.

The activities to be undertaken by coalition Participants of the East Bay Corridor Initiative include:

- develop strategies to create thriving neighborhoods and downtowns
- identify and develop funding sources for plan implementation
- endorse joint applications by coalition Participants for grants and other funding that support agreed upon strategies

The East Bay Corridor Brownfields Coalition Assessments align well with the activities of the East Bay Corridors Initiative. Identifying and conducting site assessments along the Oakland, San Leandro, Hayward, Alameda County segment of the corridor will improve public health, advance implementation of local plans, increase marketability of land and greatly enhance land re-use along the corridor.

## **III. Proposed Activities**

The Participants of the coalition will undertake the following activities.

- Meet on a regular basis as determined by coalition Participants
- In partnership with community organizations, develop a robust community engagement plan
- Allocate funding to increase capacity of community organization partners
- Develop a site selection process that prioritizes sites with high redevelopment impact potential

- Hire most appropriate and qualified consultants to conduct site assessments
- Assist with the development of land re-use plans

#### **IV. Roles and Responsibilities**

Each Participant of the coalition will have the following responsibilities:

- Each coalition Participant will assign a representative to the EBC Brownfields Program
- Each coalition Participant will participate in regular meetings, development of public engagement plan, site selection and consultant hiring process

#### **V. Structure and Governance**

For ease of formation and administration and to maintain flexibility, the East Bay Corridor Brownfields Coalition is structured as an unincorporated association of local and regional public entities. The coalition Participants agree that this MOA is independent of any other contract(s) or agreement(s) between or among the coalition Participants, or the contracts(s) or agreement(s) between or among any Corridor Jurisdiction that are promulgated to implement a grant or local plan.

Each coalition Participant will assign a representative and these representatives will collectively coordinate activities undertaken pursuant to this MOA. Through a unanimous vote representatives may establish rules related to decision making for the coalition.

Every representative has the right to appoint an alternative to the coalition.

#### **VI. Participant Resources and Compensation**

The coalition Participants acknowledge that the East Bay Corridor Brownfields Coalition is likely to require some investment of resource to be effective. Each coalition Participant will assign staff, at no cost, to act as its representative.

Financial support will be provided to community and non-profit organizations to facilitate their active participation in the project.

#### **VII. Withdrawal and Termination**

This MOA will continue until terminated by majority vote of the representatives, but coalition Participants may withdraw from this MOA on sixty (60) days notice to other coalition Participants. If a coalition Participant withdraws from the coalition, management of active Phase I and II assessments in their jurisdiction will be transferred to ABAG.

#### **VIII. Amendments**

This MOA may be amended by written agreement executed by the Participants in the same manner as this MOA.

#### **IX. Effective Date**

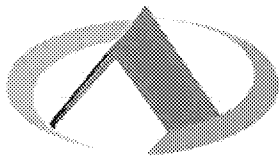
This MOA is effective upon the date the Participants execute the MOA

#### **X. Signatures of Parties' Principals**

**ATTACHMENT C**

**Letters of Support**

**East Bay Corridor Brownfields Coalition Participants**



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT

Chris Bazar  
Agency Director

December 14, 2015

Albert Lopez  
Planning Director

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

224  
West Winton Ave.  
Room 111

Hayward  
California  
94544

phone  
510.670.5400  
fax  
510.785.8793

[www.accd.org/cdd](http://www.accd.org/cdd)

Dear Mr. Rapport:

The County of Alameda is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the County's Ashland-Cherryland Business District (ABCD) Specific Plan, Plan Bay Area, and our ongoing partnership to collaborate with ABAG and our neighboring jurisdictions through the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by community members and in the ABCD Specific Plan. Strong support exists for creating much-needed community services, mixed-income housing, and economic development in this area, but ongoing concerns regarding environmental issues have limited the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city projects, including our update to the Ashland-Cherryland Specific Plan funded by MTC and ABAG, the REACH youth center, and multiple streetscape improvements. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact us with any questions regarding these commitments.

Sincerely,

Albert Lopez  
Planning Director



November 20, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport:

The City of Hayward is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's Mission Blvd Corridor Specific Plan/Form-Based Code and South Hayward/Mission Boulevard Form-Based Code, Plan Bay Area, and the East Bay Corridors Initiative—our ongoing effort to collaborate with ABAG and our neighboring East Bay jurisdictions.

The grant award would set the stage for the redevelopment of key opportunity properties identified in our recently adopted plans for Mission Boulevard. Strong support exists for creating new mixed-income housing, community services, and job-creating land uses in this area. However, ongoing concerns regarding environmental issues have limited somewhat the potential for achieving these objectives. The recent loss of our redevelopment agency and our ongoing budgetary limitations has also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple grant-funded city efforts, including the current Downtown Hayward Specific Plan project, transportation improvements to Mission Boulevard and Foothill Boulevard, and redevelopment sites along Mission Boulevard and in Downtown. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect our cities. Please feel free to contact me with any questions regarding these commitments.

Sincerely,

David Rizk  
Development Services Director  
City of Hayward

# CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 3315 • OAKLAND, CALIFORNIA 94612-2032

Office of the City Administrator  
Department of Economic and Workforce Development

(510) 238-3627  
FAX (510) 238-2226  
TDD (510) 238-3254

December 17, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

The City of Oakland is pleased to commit to supporting and participating in the U.S. EPA Brownfields Coalition Assessment Grant for the International Boulevard/East 14<sup>th</sup> Street/Mission Boulevard corridor, including five Bay Area Rapid Transit (BART) station areas, in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of the City's recently adopted Coliseum Area Specific Plan, International Boulevard Transit-Oriented Development (TOD) plan, Plan Bay Area, and our ongoing partnership with ABAG and our neighboring jurisdictions in the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by community members. Our recent planning efforts have created momentum for implementing community priorities (i.e. affordable housing, local parks, and job creation) on these sites, but ongoing concerns regarding safety and environmental issues have limited public and private capacity for redevelopment. In addition, the loss of redevelopment agencies and city budgetary limitations has significantly diminished our resources to fund the type of effort that would be supported by this grant. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and continue to participate in the creation of a successful transit corridor between Oakland and Hayward.

The grant would leverage multiple planning and infrastructure investments, including the Oakland Sustainable Neighborhoods Initiative (OSNI) and International Blvd TOD Plan supported by the California Strategic Growth Council (SGC), the East Bay Bus Rapid Transit (BRT) project funded by AC Transit, ongoing investments in BART and improvements to International Blvd and other streets in the corridor funded by the Alameda County Transportation Commission. This application provides an opportunity to build upon these resources while implementing a collaborative local, regional, and corridor vision for smart, healthy, equitable development.

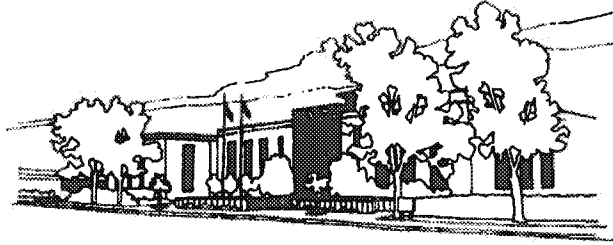
Sincerely,

A handwritten signature in dark ink, appearing to read "Mark Sawicki", written over a horizontal line.

Mark Sawicki  
Director  
Economic & Workforce Development Department

## City of San Leandro

Civic Center, 835 E. 14th Street  
San Leandro, California 94577  
www.sanleandro.org



December 3, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments (ABAG)  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

The City of San Leandro is pleased to support and participate in the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County. This grant supports implementation of two key City specific plans, the Downtown TOD Strategy and East 14<sup>th</sup> South Area Strategy, as well as Plan Bay Area and our ongoing partnership with ABAG and neighboring East Bay jurisdictions through the East Bay Corridors Initiative.

The grant award would set the stage for the redevelopment of key opportunity properties identified by the City Council and community in our adopted Downtown and East 14<sup>th</sup> Street plans. Strong public support exists for creating much-needed community services, mixed-income housing, and economic development in these areas, but ongoing concerns regarding environmental issues are a factor in developing some of the opportunity sites. The recent loss of our redevelopment agency and our ongoing budgetary limitations have also contributed to these challenges. In concert with ABAG and coalition jurisdictions, we will utilize this grant to assess our highest priority potential brownfield sites, engage community members, and work collaboratively with our neighboring jurisdictions.

The grant would leverage multiple and recent grant-funded City projects including streetscape improvements in the Downtown TOD plan area and the Bay Fair TOD Specific Plan currently underway. We view this application as an opportunity to build on these resources and implement a collaborative vision for the transit corridors that connect us to our neighboring cities and the East Bay.

Please feel free to contact Tom Liao, Deputy Community Development Director, 510-577-6003, with any questions regarding these commitments.

Sincerely,

Cynthia Battenberg, Community Development Director

Pauline Russo Cutter, Mayor

City Council:

Deborah Cox  
Jim Prola

Benny Lee  
Ursula Reed

Corina N. López  
Lee Thomas



**ATTACHMENT D**

**Letters of Support**

**East Bay Corridor Brownfields Coalition**

**Community Organization Partners**

San Francisco Office  
312 Sutter Street, Suite 510  
San Francisco, CA 94108  
(415) 543-6771

December 17, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

**RE:    U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor**

Dear Mr. Rapport:

Greenbelt Alliance is the champion of the places that make the Bay Area special. We ensure the right development happens in the right places. Through land-use policy and planning expertise, engagement with decision makers, and efforts to educate and engage Bay Area residents, we work to protect the region's open spaces and make sure cities grow in a way that creates great neighborhoods for everyone.

Greenbelt Alliance has worked with community leaders and residents across the Bay Area to develop plans and approaches to bring development that will help meet community needs to areas around transit stations and along major transportation corridors. Done right, growth of this type will help reduce pressure to sprawl into the Bay Area's greenbelt, mitigate our region's impact on the climate, revitalize long neglected areas, and provide homes and access to jobs for Bay Area residents most in need.


Because of its consistency with our objectives, **Greenbelt Alliance supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG).** ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Greenbelt Alliance looks forward to participating in the community engagement process and the overall project. We anticipate that this will be a successful project that has the potential to improve services and increase mixed-income housing and economic development in East 14<sup>th</sup> Street/Mission Boulevard communities.

Sincerely



Jeremy Madsen  
Executive Director



December 14, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

Bay Area Local Initiatives Support Corporation (LISC) supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

Bay Area LISC will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marsha G. Murrington". The signature is fluid and cursive, with a horizontal line extending from the end.

Marsha G. Murrington  
Director of Economic Development



Creating Communities of Opportunity

---

December 16, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

OCCUR supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between east bay cities and is home to diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development.

The Grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential Brownfields sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

OCCUR will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely,

Sondra Alexander  
Executive Director



December 11, 2015

Ezra Rapport, Executive Director  
Association of Bay Area Governments  
101 8<sup>th</sup> Street  
Oakland, CA 94607

Dear Mr. Rapport,

TransForm supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself; Alameda County; and the Cities of Oakland, San Leandro and Hayward.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history and formerly served as an employment center, particularly for people of color. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

TransForm will participate in the community engagement plan and the overall project. We look forward to successful project outcomes which have the potential to improve services and increase mixed-income housing and economic development in our communities.

Sincerely

A handwritten signature in cursive script that reads "Stuart Cohen".

Stuart Cohen  
Executive Director

MAIN OFFICE: 436 14TH STREET, SUITE 600, OAKLAND, CA 94612 | T: 510.740.3150 |  
SACRAMENTO: 717 K STREET, SUITE 300, SACRAMENTO, CA 95814 | T: 916.441.0204 |  
SILICON VALLEY: 48 SOUTH 7TH STREET, SUITE 103, SAN JOSE, CA 95112 | T: 408.406.8074 |

[WWW.TRANSFORMCA.ORG](http://WWW.TRANSFORMCA.ORG)

004757 2020-10-29



Date: December 9, 2015

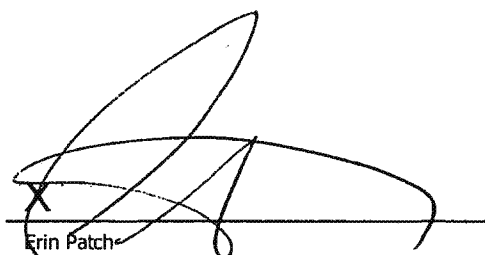
The Unity Council supports the U.S. EPA Brownfields Coalition Assessment Grant for the East 14<sup>th</sup> Street/Mission Boulevard corridor in Oakland, San Leandro, Hayward, and unincorporated Alameda County submitted by the Association of Bay Area Governments (ABAG). ABAG is submitting the application on behalf of itself, the Cities of Oakland, San Leandro, and Hayward and Alameda County.

The East 14<sup>th</sup> Street/Mission Boulevard corridor has a rich cultural history. This major corridor provides a critical linkage between East Bay cities and is home to a diverse group of residents. Though the corridor has received little in the way of public and private investment over the past three decades, its importance in the regional long range sustainable growth plan make it a major focus for future growth and development. In light of the current Bus Rapid Transit line in development along International Boulevard/E. 14<sup>th</sup> Street, this vital artery is poised to play a center role in the area's ability to undergo sustainable growth.

The grant award would set the stage for the redevelopment of key opportunity properties identified by local jurisdictions and community members. The funds will be utilized to assess high priority potential Brownfield sites, work collaboratively with neighboring jurisdictions, and engage community members. The desired outcome is to advance land reuse and promote growth and development along the corridor.

The Unity Council will participate in the community engagement plan and the overall project. We look forward to successful project outcomes including improved services and increased mixed-income housing and economic development in our communities.

Sincerely,



Erin Patch  
Executive Vice President

**The Unity Council**  
1900 Fruitvale Ave Ste 2A, Oakland, CA 94601  
510-535-6900 Office • 510-534-7771 Fax • [www.unitycouncil.org](http://www.unitycouncil.org)

## Application for Federal Assistance SF-424

**\* 1. Type of Submission:**

- ☐ Preapplication  
☒ Application  
☐ Changed/Corrected Application

**\* 2. Type of Application:**

- ☒ New  
☐ Continuation  
☐ Revision

**\* If Revision, select appropriate letter(s):**

**\* Other (Specify):**

**\* 3. Date Received:**

12/18/2015

**4. Applicant Identifier:**

**5a. Federal Entity Identifier:**

**5b. Federal Award Identifier:**

**State Use Only:**

**6. Date Received by State:**

**7. State Application Identifier:**

**8. APPLICANT INFORMATION:**

**\* a. Legal Name:** Association of Bay Area Governments

**\* b. Employer/Taxpayer Identification Number (EIN/TIN):**

94-2832478

**\* c. Organizational DUNS:**

0790739200000

**d. Address:**

**\* Street1:**

MetroCenter, 101 8th Street

**Street2:**

**\* City:**

Oakland

**County/Parish:**

**\* State:**

CA: California

**Province:**

**\* Country:**

USA: UNITED STATES

**\* Zip / Postal Code:**

94607-4756

**e. Organizational Unit:**

**Department Name:**

Planning Department

**Division Name:**

**f. Name and contact information of person to be contacted on matters involving this application:**

**Prefix:**

Ms.

**\* First Name:**

JoAnna

**Middle Name:**

**\* Last Name:**

Bullock

**Suffix:**

**Title:** Senior Grants Administrator

**Organizational Affiliation:**

Association of Bay Area Governments

**\* Telephone Number:** 510 464-7968

**Fax Number:** 510 464-7985

**\* Email:** joannab@abag.ca.gov

## Application for Federal Assistance SF-424

### \* 9. Type of Applicant 1: Select Applicant Type:

E: Regional Organization

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

### \* 10. Name of Federal Agency:

Environmental Protection Agency

### 11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

### \* 12. Funding Opportunity Number:

EPA-OSWER-OBLR-15-04

\* Title:

FY16 Guidelines for Brownfields Assessment Grants

### 13. Competition Identification Number:

Title:

### 14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

### \* 15. Descriptive Title of Applicant's Project:

East Bay Corridor Brownfields Coalition Assessments

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

004760 2020-10-29

**Application for Federal Assistance SF-424****16. Congressional Districts Of:**\* a. Applicant \* b. Program/Project 

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

**17. Proposed Project:**\* a. Start Date: \* b. End Date: **18. Estimated Funding (\$):**\* a. Federal \* b. Applicant \* c. State \* d. Local \* e. Other \* f. Program Income \* g. TOTAL **\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**☒ a. This application was made available to the State under the Executive Order 12372 Process for review on .☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.☐ c. Program is not covered by E.O. 12372.**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ \*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**Prefix: \* First Name: Middle Name: \* Last Name: Suffix: \* Title: \* Telephone Number: Fax Number: \* Email: \* Signature of Authorized Representative: \* Date Signed: 

004761 2020-10-29